



December 17, 2018

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20544

Re: Erratum for *In the Matter of Implementation of Section 621(a) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket No. 05-311

Dear Ms. Dortch,

On December 14, 2018, the City of Philadelphia *et al.* timely filed reply comments in response to the Media Bureau's Notice of Proposed Rulemaking seeking to modify regulations affecting cable franchise fees, mixed-use networks, and state cable franchising actions and regulations.¹

In that filing, the City of Philadelphia *et al.* inadvertently omitted Exhibit A, a declaration from Thomas G. Robinson.

We would respectfully request that the attached reply comments with Exhibit A be substituted into the record.

Very truly yours,

/s/ Michael R. Bradley

Michael R. Bradley
Counsel to the City of Philadelphia et al.

¹ In the Matter of Implementation of Section 621(a) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992, Second Further Notice of Proposed Rulemaking, MB Docket No. 05-311 (rel. Sep. 25, 2018).

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984)
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

MB Docket No. 05-311

REPLY COMMENTS OF THE CITY OF PHILADELPHIA, PENNSYLVANIA, CITY OF OKLAHOMA CITY, OKLAHOMA; CITY OF MINNEAPOLIS, MINNESOTA; NORTHWEST SUBURBAN CABLE COMMUNICATIONS COMMISSION; CITY OF SIOUX FALLS, SOUTH DAKOTA; NORTH METRO TELECOMMUNICATIONS COMMISSION; NORTH SUBURBAN COMMUNICATIONS COMMISSION; THE SOUTH WASHINGTON COUNTY TELECOMMUNICATIONS COMMISSION; CITY OF RENTON, WASHINGTON; CITY OF EDMOND, OKLAHOMA; CITY OF COON RAPIDS, MINNESOTA; CITY OF WEST ALLIS, WISCONSIN; TOWN OF PERINTON, NEW YORK; CITY OF URBANDALE, IOWA; CITY OF EDMONDS, WASHINGTON; TOWN OF PITTSFORD, NEW YORK; CITY OF MAPLE VALLEY, WASHINGTON; CITY OF WATERTOWN, WISCONSIN; VILLAGE OF OREGON, WISCONSIN; AND CITY OF NEW LONDON, WISCONSIN

Michael R. Bradley
Michael Athay
Vince Rotty
Bradley Berkland Hagen & Herbst, LLC
2145 Woodlane Drive, Suite 106
Woodbury, MN 55125

December 14, 2018

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SUMMARY

The FNPRM should be rejected because it is unsupported by public policy and has no legal basis. The above-referenced municipal entities (the “LFAs”) submitted Initial Comments¹ in response to the FCC’s Second Further Notice of Proposed Rulemaking² and respectfully submit these Reply Comments. These Reply Comments primarily address arguments raised by several Comments submitted by the cable industry (collectively, the “Industry Comments”).³

In the FNPRM, the FCC has proposed a new interpretation of how cable franchise fees are calculated by allowing cable operators to include nearly all in-kind franchise provisions.⁴ Contrary to the Industry Comments, the LFAs along with many other commenters and many Congress Members believe such an action would create a “lose-lose” proposition and fails to recognize the many public benefits brought by in-kind franchise provisions.

The FNPRM and the Industry Comments also fail to present evidence showing that in-kind franchise provisions are assessments imposed on cable operators and therefore franchise fees under Section 622. While the Industry Comments summarily refer to such in-kind provisions as “exactions,” they fail to show how they are exactions. The LFAs’ have shown in-kind provisions are either willingly negotiated in informal cable franchise negotiations or

¹ See Initial Comments of the City of Philadelphia, Pennsylvania *et al.*, MB Docket No. 05-311 (Nov. 14, 2018) (herein “Initial Comments”).

² *In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992*, Second Further Notice of Proposed Rulemaking, MB Docket No. 05-311 (Sep. 25, 2018) (herein (“FNPRM”).

³ See Comments of NCTA – The Internet and Television Association, MB Docket No. 05-311 (Nov. 14, 2018) (herein “NCTA Comments”); Comments of the American Cable Association on the Second Further Notice of Proposed Rulemaking, MB Docket No. 05-311 (Nov. 14, 2018) (herein “ACA Comments”); Comments of Verizon, MB Docket No. 05-311 (Nov. 14, 2018) (herein “Verizon Comments”) (collectively referred to herein as the “Industry Comments” or the “Industry Commenters.”).

⁴ See Initial Comments at pp. 19-43.

proposed by cable operators as part of the formal cable renewal process. Either way, in no way are in-kind provisions “exacted” like a civil forfeiture. Because of this, the reliance on the *Montgomery County* decision is misplaced as that decision indicated that only “in-kind exactions” like civil forfeitures *could* be an assessment and thus part of a franchise fee.

The Industry Comments selectively cite to the sparse legislative history that exists on Section 622 of the Cable Act and therefore read the legislative history out of context. The LFAs have shown again that the legislative history though sparse supports the LFAs’ position that franchise fees are monetary in nature and do not include in-kind franchise provisions. Any reading to the contrary would render other provisions of the Cable Act meaningless. The LFAs further have shown that any action by the FCC would have no positive impact on broadband deployment. In reality, the FCC’s proposed actions may hinder broadband deployment since local franchising authorities have already negotiated for build-out to unserved areas of their communities, and the FCC is effectively proposing to eliminate these bargained-for franchise requirements.

Next, the Reply Comments address mixed-use networks. The LFAs recap and elaborate their argument in the Initial Comments that the FCC’s proposed mixed use ruling is based on an invalid inference, from the “common carrier exception” in Section 602(7)(C) of the Cable Act, to the proposition that an incumbent cable operator’s cable system is not subject to LFA regulation if it carries non-cable services as well as cable service. The LFAs argue that the FCC ignores both the legislative history of the Cable Act, and the difference between Title II’s focus on services and Title VI’s focus on cable systems as the locus of local regulatory authority. As a result, the FCC incorrectly applies the “common carrier exception” in Section 602(7)(C), which is the crux of its argument that incumbent cable systems are exempt from LFA regulation to the

extent they carry non-cable services. The LFAs then examine the industry's position, as stated in NCTA's Comments, that multiple sections of the Cable Act preempt LFA regulation of cable systems altogether, including their occupancy of the public rights of way, and including regulation founded in sources of local authority other than the Cable Act. The LFAs show that in fact the provisions NCTA relies on do not support the broad and categorical preemption NCTA asks the FCC to adopt.

Finally, the Reply Comments address state franchising actions and regulations. Although the Commission does not possess the authority necessary to enact regulations as proposed in the FNRPM, the Industry Comments suggest that validly enacted federal regulations would somehow be subservient to state and local law and that the FCC must expressly preempt states for any regulations to take effect.⁵ The Industry Comments similarly suggest, 34 years after the Cable Communications Policy Act of 1984's (herein "Cable Act") passage, that only at this particular point in time do disparate state regulations, which existed prior to and are expressly undisturbed by the Cable Act, impose an undue regulatory burden. These bald assertions by the Industry Comments are wholly unsupported and do not otherwise cure the FNRPM's legal deficiencies previously identified in the Initial Comments.⁶

The LFAs request that the FCC decline to adopt the proposed rules in the FNRPM.

⁵ See U.S. CONST. art. vi., cl. 2.

⁶ Initial Comments at pp. 51-56.

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I. INTRODUCTION

The above-referenced municipal entities⁷ submitted Initial Comments in response to the

⁷ The municipal entities are in order of population size constituting 46 municipal organizations from the states of Iowa, Minnesota, New York, Oklahoma, Pennsylvania, South Dakota, Washington, and Wisconsin, with a collective population of approximately 3.8 million (individual municipal populations in parentheses): City of Philadelphia, Pennsylvania (1,580,863); City of Oklahoma City, Oklahoma (579,999); City of Minneapolis (382,578); Northwest Suburban Cable Communications Commission (collective population 317,272) (a Minnesota municipal joint powers commission consisting of the Minnesota cities of Brooklyn Center (30,104), Brooklyn Park (75,781), Crystal (22,141), Golden Valley (20,371), Maple Grove (61,567), New Hope (20,339), Osseo (2,430), Plymouth (70,576), and Robbinsdale (13,953)); City of Sioux Falls, South Dakota (153,888); North Metro Telecommunications Commission (collective population 109,779) (a Minnesota municipal joint powers commission consisting of the Minnesota cities of Blaine (57,186), Centerville (3,792), Circle Pines (4,918), Ham Lake (15,296), Lexington (2,049), Lino Lakes (20,216), and Spring Lake Park (6,412)); North Suburban Communications Commission (collective population 106,991) (a Minnesota municipal joint powers commission consisting of the Minnesota cities of Arden Hills (9,552),

FCC’s Second Further Notice of Proposed Rulemaking⁸ and respectfully submit these Reply Comments.⁹ The LFAs endorse and support the many comments submitted by local franchising authorities in opposition to FCC’s proposed rulemaking.¹⁰ These Reply Comments primarily address arguments raised by several cable industry Comments.¹¹

II. REPLY COMMENTS

A. In-Kind Franchise Provisions Are Not Franchise Fees

1. Benefits to the Public – Not Cable Operator Margins – Should Dictate Public Policy.

In-kind franchise provisions negotiated and/or proposed by cable operators have benefited the public in many ways. The proposed rulemaking by the FCC allowing cable operators to deduct or eliminate the value of in-kind franchise provisions by setting it off against

Falcon Heights (5,321), Lauderdale (2,379), Little Canada (9,773), Mounds View (12,155), New Brighton (21,456), North Oaks (4,469), Roseville (33,660), and St. Anthony (8,226)); South Washington County Telecommunications Commission (collective population 105,571) (a Minnesota municipal joint powers commission consisting of the Minnesota municipalities of Woodbury (61,961), Cottage Grove (34,589), Newport (3,435), Grey Cloud Island Township (307), and St. Paul Park (5,279), Minnesota); City of Renton, Washington (population 90,927); City of Edmond, Oklahoma (population 81,405); City of Coon Rapids, Minnesota (61,476); City of West Allis, Wisconsin (60,411); Town of Perinton, New York (46,462); City of Urbandale, Iowa (39,463); City of Edmonds, Washington (39,709); Town of Pittsford, New York (population 29,405); City of Maple Valley, Washington (population 25,758); City of Watertown, Wisconsin (23,861); Village of Oregon, Wisconsin (9,231); and City of New London, Wisconsin (7,295).(collectively, the “LFAs”).

⁸ FNRPM.

⁹ See Initial Comments.

¹⁰ See, e.g., Comments of the National Association of Telecommunications Officers and Advisors *et al.*, MB Docket No. 05-311 (Nov. 14, 2018) (herein “NATOA Comments”); Comments of Anne Arundel County, Maryland *et al.*, MB Docket No. 05-311 (Nov. 14, 2018) (herein “Anne Arundel County *et al.* Comments”); Comments on Second Further Notice of Proposed Rulemaking of the Alliance for Communications Democracy *et al.*, MB Docket No. 05-311 (Nov. 14, 2018) (“The Alliance for Communications Democracy (‘ACD’); the Alliance for Community Media (‘ACM’); and the Cities of Bowie, Maryland; Eugene, Oregon; Palo Alto, California; and Portland, Maine (collectively, Cable Act Preservation Alliance (‘CAPA’)), submit these comments in response to the Commission’s Second Further Notice of Proposed Rulemaking (‘Second FNPRM’) in this docket.”) (herein “CAPA Comments”).

¹¹ See NCTA Comments; ACA Comments; Verizon Comments.

the franchise fee will significantly alter or even eliminate many of these important benefits to the public.¹² Many members of Congress recognize these benefits and have urged the FCC to take no action to disturb these public benefits.¹³ The result of FCC action as proposed in the FNPRM will be a “lose-lose” proposition that “will result in a dire drop in resources for PEG channels throughout the nation”¹⁴ among other public benefits. The Initial Comments, many other Commenters, and Congress Members identified many of these public benefits, including:

- Access to locally relevant information such as candidate profiles prior to elections, city council and school board meetings, and high school sporting events;¹⁵

¹² See Exhibit A, Declaration of Thomas G. Robinson at D.3. See also Comments of the City and County of Denver, MB Docket No. 05-311 (Nov. 14, 2018); Comments of City of Lansing, Michigan, MB Docket NO. 05-311 (Nov. 14, 2018); Julie Zeglen, This FCC rule change could put funding for public access TV at risk, GENEROCITY (Dec. 12, 2018) (“There is a very real possibility that PEG operators like PhillyCAM will see other negative consequences, such as the reduction or elimination of public access television channels.”), available at <https://generocity.org/philly/2018/12/12/this-fcc-rule-change-would-cut-public-access-dollars-heres-how-phillycam-is-responding/>.

¹³ See U.S. Rep. Mark Pocan, *Letter to Chairman Pai* (Dec. 12, 2018) (“Under [the FCC’s] proposed rule, I am concerned that if Wisconsin municipalities also have to pay for the PEG channels themselves, it would force nearly all cities to abandon their channels for lack of funds.”); U.S. Rep. Peter Welch & U.S. Rep. Chellie Pingree, *Letter to Chairman Pai* (Dec. 6, 2018), available at <http://files.constantcontact.com/5a368357301/0df063a8-bf68-4068-aa1e-2c5d5a4d4452.pdf>; U.S. Senator Edward J. Markey, U.S. Senator Tammy Baldwin, U.S. Senator Margaret W. Hassan, U.S. Senator Benjamin L. Cardin, U.S. Senator Jeffrey A. Merkley, U.S. Senator Barnard Sanders, U.S. Senator Gary C. Peters, U.S. Senator Ron Wyden, U.S. Senator Patrick Leahy, U.S. Senator Richard Blumenthal, U.S. Senator Elizabeth Warren, *Letter to the Honorable Ajit V. Pai* (Oct. 29, 2018), available at <https://www.markey.senate.gov/imo/media/doc/FCC%20Franchise%20Fee%20Proposal.pdf>.

¹⁴ See U.S. Senator Edward J. Markey, U.S. Senator Tammy Baldwin, U.S. Senator Margaret W. Hassan, U.S. Senator Benjamin L. Cardin, U.S. Senator Jeffrey A. Merkley, U.S. Senator Barnard Sanders, U.S. Senator Gary C. Peters, U.S. Senator Ron Wyden, U.S. Senator Patrick Leahy, U.S. Senator Richard Blumenthal, U.S. Senator Elizabeth Warren, *Letter to the Honorable Ajit V. Pai* (Oct. 29, 2018), available at <https://www.markey.senate.gov/imo/media/doc/FCC%20Franchise%20Fee%20Proposal.pdf>.

¹⁵ See H.R. Rep. No. 98-934, 1984 U.S.C.C.A.N. 4655, 4667 (herein “Cable Act House Report”). See NATOA Comments at p. 10; Anne Arundel County *et al.* Comments at pp. 28-29; CAPA Comments at p. 9; Comments of the Iowa League of Cities, MB Docket No. 05-311 (Nov. 14, 2018); Comments of the Philadelphia Community Access Corporation, MB Docket No. 05-311 (Nov. 14, 2018); Comments of the Manhattan Community Access Corporation, MB Docket No. 05-311 (Nov. 14, 2018); Comments of the City of New York at p. 8, MB Docket No.

- Multi-platform access to locally relevant programming;¹⁶
- Fair and responsible public rights-of-way management to ensure safe access for the public;¹⁷
- Discounts for senior citizens and disabled citizens benefit some of the most vulnerable citizens of the LFAs;¹⁸
- Institutional networks allow municipalities to provide services and communicate effectively with its citizens;¹⁹
- Electronic Programming Guide Service;²⁰

05-311 (Nov. 14, 2018); Comments of the City of Arlington, Texas, MB Docket No. 05-311 (Nov. 14, 2018); Comments of King County, Washington at p. 8, MB Docket No. 05-311 (Nov. 14, 2018); Comments of Mississippi Municipal League, MB Docket No. 05-311 (Nov. 14, 2018); Comments of Alabama League of Municipalities, MB Docket No. 05-311 (Nov. 13, 2018); Comments of City of Burnsville, Minnesota, MB Docket No. 05-311 (Nov. 13, 2018). *See also* Dan Kennedy, *Is Community Access TV on the FCC Chopping Block*, WGBH NEWS (Nov. 28, 2018), <https://www.wgbh.org/news/commentary/2018/11/28/is-community-action-tv-on-the-fcc-chopping-block> (“What’s at stake if the FCC has its way, says CCTV’s Fleischmann, is ‘the elimination or curtailment of one of the few remaining non-commercial free speech media platforms.’”); Jim Dayton, *JATV could be forced off cable if FCC proposal becomes law*, GAZETTE XTRA (Dec. 10, 2018), *available at*

https://www.gazetteextra.com/news/government/jatv-could-be-forced-off-cable-if-fcc-proposal-becomes/article_44a84ed2-bb2e-5969-a5da-e330750652b8.html.

¹⁶ *See, e.g.*, North Metro Telecommunications Commission, *North Metro TV Live Stream*, *available at* <https://northmetrotv.com/channel-15-live/>; West Allis, Wisconsin, *YouTube City Channel*, *available at* <https://www.youtube.com/user/westalliscitychannel>.

¹⁷ *See* Cable Act House Report at 4696. *See, e.g.*, Philadelphia, Pennsylvania, *Cable Franchise Agreement Between City of Philadelphia and Comcast of Philadelphia, LLC, Comcast of Philadelphia II, LLC* (2015), *available at* <https://phila.legistar.com/View.ashx?M=F&ID=4160967&GUID=CFA9C658-6CBE-4521-BAF1-6A3F47C06C25>; Comments of King County, Washington at pp. 9-10, MB Docket No. 05-311 (Nov. 14, 2018).

¹⁸ *See* NATOA Comments at p. 10; Anne Arundel County *et al.* Comments at p. 26; Comments of King County, Washington at p. 8, MB Docket No. 05-311 (Nov. 14, 2018). *See, e.g.*, Renton, Washington, *Cable Franchise Agreement Between City of Renton, Washington and Comcast Cable Communication Management, LLC and Comcast Cable Holdings, LLC* at § 5.3 (2014), *available at* <https://renton.civicweb.net/filepro/document/34953/Comcast%20ORD.pdf>.

¹⁹ *See* CAPA Comments at p. 13; Comments of City of Burnsville, Minnesota, MB Docket No. 05-311 (Nov. 13, 2018). *See, e.g.*, North Suburban Communications Commission, *Staff Report on CenturyLink Cable Franchise Application* (Apr. 9, 2015), *available at* [https://ctvnorthsuburbs.org/content/pdfs/CenturyLink/1StaffReport20150409\(FINAL\).pdf](https://ctvnorthsuburbs.org/content/pdfs/CenturyLink/1StaffReport20150409(FINAL).pdf).

²⁰ *See* NATOA Comments at p. 10; Anne Arundel County *et al.* Comments at pp. 28-29; CAPA Comments at p. 9; Comments of the Iowa League of Cities, MB Docket No. 05-311 (Nov. 14, 2018); Comments of the Philadelphia Community Access Corporation, MB Docket No. 05-311 (Nov. 14, 2018); Comments of the Manhattan Community Access Corporation, MB Docket No. 05-311 (Nov. 14, 2018); Comments of the City of New York at p. 8, MB Docket No. 05-311 (); Comments of the City of Arlington, Texas, MB Docket No. 05-311 (Nov. 14, 2018); Comments

- HD/SD Access Channels for public, educational and governmental programming;²¹
- Coverage of local high school sports and other activities;²²
- Coverage of events of local significance;²³
- Closed captioning for viewers with disabilities;²⁴
- Customer service provisions including provisions requiring local customer service locations benefit cable subscribers giving them the ability to quickly address customer services questions and complaints;²⁵
- Customer service centers physically located in the community; and²⁶
- Build-out requirements to unserved areas.²⁷

In our view, these public benefits are more valued by the public than the alleged reduction in a cable operator's margins as urged in the Industry Comments.²⁸ One Industry Commenter went so far as to argue that a cable operator's internal operating costs be included in a franchise fee!²⁹ Under the current rules, Cable operator margins are reportedly quite healthy.³⁰ Public policy, to the extent it is relevant, supports the LFAs' position that in-kind franchise provisions do not fall

of King County, Washington at p. 8, MB Docket No. 05-311 (Nov. 14, 2018); Comments of Mississippi Municipal League, MB Docket No. 05-311 (Nov. 14, 2018); Comments of Alabama League of Municipalities, MB Docket No. 05-311 (Nov. 13, 2018); Comments of City of Burnsville, Minnesota, MB Docket No. 05-311 (Nov. 13, 2018).

²¹ See *supra* at n. 16.

²² See *supra* at n. 16.

²³ See *supra* at n. 16.

²⁴ See *supra* at n. 16.

²⁵ See Comments of Mississippi Municipal League, MB Docket No. 05-311 (Nov. 14, 2018); Comments of Alabama League of Municipalities, MB Docket No. 05-311 (Nov. 13, 2018). See, e.g., Renton, Washington, *Cable Franchise Agreement Between City of Renton, Washington and Comcast Cable Communication Management, LLC and Comcast Cable Holdings, LLC* at § 5.3 (2014), available at <https://renton.civicweb.net/filepro/document/34953/Comcast%20ORD.pdf>.

²⁶ See NATOA Comments at p. 10.

²⁷ See Anne Arundel County *et al.* Comments at p. 28.

²⁸ See ACA Comments at p. 9.

²⁹ See ACA Comments at p. 8.

³⁰ See, e.g., Charter Communications, Inc., Form 10-K (2017) (reporting a 43.4% increase in revenue from 2016 to 2017), available at <https://ir.charter.com/static-files/846b7951-583a-4ede-a45f-b985f46cc9b6>; Comcast Corporation, Form 10-K (2017) (reporting a year-over-year increase in revenue for every year from 2013 to 2017, including a 161.2% increase in net income from 2016 to 2017), available at <https://www.cmcsa.com/static-files/111ba611-eb85-4edc-9000-3907c84697d8>.

under the definition of franchise fees under Section 622 of the Cable Act, or in the alternative, should be valued at the cable operator's actual incremental cost.

2. In-Kind Franchise Provisions Are Negotiated or Proposed by the Cable Operator And Therefore Cannot Be "Exactions."

The Industry Comments all summarily refer to in-kind provisions as "in-kind exactions,"³¹ however none of the industry commenters, or the FCC in the FNPRM, provided any evidence that would support such a classification. In contrast, the LFAs showed in their Initial Comments that the negotiated in-kind provisions are not exactions.³² Thus, there is no evidence before the FCC that negotiated in-kind provisions are exactions. Negotiated in-kind provisions are not exacted and are therefore not franchise fees because such provisions are not an assessment imposed on a cable operator.

The NCTA listed a handful of examples of "recent demands" and "requirements" of local governments.³³ "Recent demands" in no way reaches the level of an exaction. Under the Cable Act, cable franchise renewal agreements are negotiated either informally through typical contract negotiations or through the formal cable franchise renewal process identified in the Cable Act.³⁴ Well over 99 percent of cable franchises are reached through informal contract negotiations.³⁵

³¹ See Comments of NCTA – The Internet and Television Association at pp. 41, 43, 47, 51, 52 & 55, MB Docket No. 05-311 (Nov. 14, 2018) (herein "NCTA Comments"); Comments of the American Cable Association on the Second Further Notice of Proposed Rulemaking at pp. 4 & 6, MB Docket No. 05-311 (Nov. 14, 2018) (herein "ACA Comments").

³² See Initial Comments of the City of Philadelphia, Pennsylvania *et al.* at pp. 21-26, MB Docket No. 05-311 (Nov. 14, 2018) (herein "Initial Comments"). See also, *e.g.*, Phone Recovery Services, LLC v. Qwest Corp., No. A17-0078 (Minn. Oct. 31, 2018) (citing Minn. Stat. § 645.44, subd. 19).

³³ See NCTA Comments at pp. 43-45.

³⁴ See Cable Communications Policy Act of 1984 at § 626, Pub. L. 98-549, 98 Stat. 2779, 2791 (1984), *amended by* Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385, 106 Stat. 1460 (1992), *amended by* Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996) (herein "Cable Act").

³⁵ See Exhibit A, Declaration of Thomas Robinson at C.1.

In only a very few jurisdictions over the past 34 years has a cable franchise renewal been determined using the formal process.³⁶ The terms resulting from informal contract negotiations require both parties to agree to the terms and conditions. Under no circumstance, could such bargained-for terms be considered exactions. Indeed, cable operators routinely acknowledge the renewal process as the negotiation of a “mutually satisfactory agreement.”³⁷

Nor can the terms of a cable franchise resulting from following the formal process in Section 626 be considered exactions.³⁸ The Cable Act contemplates that a local franchising authority will identify its needs and then make a request for renewal proposal from the franchised cable operator.³⁹ The cable operator then makes a *proposal* to the local franchising authority that is either accepted or denied.⁴⁰ Again, nothing in the formal renewal process would suggest that a cable operator’s franchise renewal proposal terms are an exaction of any kind. The decision to renew a cable franchise is based on the *proposal* of the cable operator.⁴¹ If there is a preliminary assessment that a franchise should not be renewed, the cable operator is afforded fair opportunity for full participation in an administrative proceeding to determine if the cable operator’s *proposal* is reasonable to meet the future cable-related community needs and interests, taking into consideration the cost of meeting such needs and interests.⁴² If dissatisfied with the administrative proceeding, the cable operator may seek judicial review.⁴³ Nothing in the formal renewal process allows a local franchising authority to take any type of action that resembles a

³⁶ See Exhibit A, Declaration of Thomas Robinson at C.1. See, e.g., *Comcast of California II, L.L.C. v. City of San Jose, California*, 286 F.Supp.2d 1241 (N.D. Cal. 2003).

³⁷ See Exhibit A, Declaration of Thomas Robinson at Appendix 5. Cable Operator Letter to the North Metro Telecommunications Commission.

³⁸ See Exhibit A, Declaration of Thomas Robinson at C.

³⁹ See Cable Act at § 626. See Exhibit A, Declaration of Thomas Robinson at B.

⁴⁰ See Cable Act at § 626(b-d).

⁴¹ *Id.*

⁴² See Cable Act at § 626(c)(2).

⁴³ See Cable Act at § 626(e).

civil forfeiture or exaction.

The Northern Dakota County Cable Communications Commission (“NDC4”) was cited as making “recent demands.”⁴⁴ On closer examination however, NDC4 was merely identifying its needs as part of the formal cable franchise renewal process, just as Congress intended when it passed the Cable Act.⁴⁵ The cable operator, pursuant to the Cable Act, has the opportunity to make a *proposal* in response to these identified needs.⁴⁶ Just because needs are identified that a cable operator doesn’t like doesn’t equate to a local government making “exactions” or “circumventing” or “evading” provisions in the Cable Act.

NCTA also referred to unnamed franchises in Minnesota requiring free cable service to certain government buildings and community gathering spaces as “recent demands.”⁴⁷ Since there have been no franchises entered into in Minnesota from the completion of a formal renewal process in the past 20 years, these “recent demands” are really just recent contract terms negotiated by a cable operator in a cable franchise.⁴⁸ The five franchises in New York City, the Montgomery County, Maryland, Hopkinsville, Kentucky and the Ramsey/Washington (Minnesota) cable franchises referenced by NCTA are similar situations.⁴⁹ These franchises were ultimately the result of informal cable franchise negotiations and resulted in franchise terms

⁴⁴ See NCTA Comments at p. 43.

⁴⁵ See Northern Dakota Cable Communications Commission, Community Needs Ascertainment (Sep. 9, 2014), *available at* <https://www.townsquare.tv/sites/default/files/documents/Exhibit%20C%20-%20Community%20Needs%20Report.pdf>.

⁴⁶ See Cable Act at § 626(a)(1).

⁴⁷ See NCTA Comments at p. 43.

⁴⁸ In other instances, it would appear that NCTA is simply airing dirty laundry on behalf of its members. For example, litigation over what is included in a cable operator’s gross revenues has no bearing on the matter at hand. Particularly the determination of non-subscriber revenue which has already been found to part of a cable operator’s gross revenues. See *The City of Pasadena, California, the City of Nashville, Tennessee, and the City of Virginia Beach, Virginia*, 16 F.C.C. Rcd. 18192 (2001); NCTA Comments at p. 45.

⁴⁹ See NCTA Comments at pp. 44-45.

and conditions all as contemplated by Congress in the Cable Act. Again, negotiated and proposed terms by the cable operator are hardly exactions by a local franchising authority. Simply labeling these provisions as “exactions,” as the Industry Commenters (and the FCC in the FNPRM) have done, does not make them “exactions.”

3. *Montgomery County’s “In-Kind Exactions” Statement Provides No Support for the FCC’s Tentative Determination to Treat Negotiated In-Kind Provisions as Franchise Fees.*

The Industry Comments relied heavily on following the *Montgomery County* decision in support of the FCC’s tentative conclusion that negotiated in-kind provisions should be considered franchise fees.⁵⁰ However, in the Initial Comments the LFAs showed the *Montgomery County* decision was limited to in-kind exactions.⁵¹ In *Montgomery County*, the court of appeals stated that “in-kind exactions,” similar to the civil forfeiture takings in the U.S. Supreme Court decision in *Austin*, could be defined as assessments and therefore *possibly* a franchise fee (i.e. an imposed assessment).⁵² As shown above and in the Initial Comments, in the context of cable franchise renewals, the negotiated or proposed in-kind provisions at issue have no relation to the in-kind exactions in *Austin* (i.e., civil forfeitures).⁵³ Furthermore, other courts have defined an “exaction” as something unilateral in nature (i.e., an “exaction” is something not subject to bilateral negotiation).⁵⁴ Therefore, *Montgomery County* and *Austin*

⁵⁰ See ACA Comments at pp. 3-4; Comments of Verizon at p. 5, MB Docket No. 05-311 (Nov. 14, 2018) (herein “Verizon Comments”).

⁵¹ See Initial Comments at pp. 23-26.

⁵² See Initial Comments at pp. 23-24.

⁵³ See Initial Comments at p. 24.

⁵⁴ See *Atl. & Pac. Tel. Co. v. City of Philadelphia*, 190 U.S. 160, 165 (1903) (equating an “exaction” to a “tax”); *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519 (2012) (equating an “exaction” to a penalty and therefore a tax); *W. Union Tel. Co. v. State of Kansas ex rel. Coleman*, 216 U.S. 1 (1910); *Page v. Lexington Cty. Sch. Dist. One*, 531 F.3d 275, 280 (4th Cir. 2008) (citing *Johanns v. Livestock Mktg. Ass’n*, 544 U.S. 550, 559 (2005)); *Diginet, Inc. v. W. Union ATS, Inc.*, 958 F.2d 1388, 1399–400 (7th Cir. 1992) (“The City cites cases that hold

provide no support for the Industry Comments or the FCC’s tentative determination on including negotiated in-kind provisions as franchise fees. Cable franchise in-kind provisions are neither assessed nor imposed. Rather, in-kind provisions are negotiated or proposed by the cable operator and do not fall under the definition of franchise fees in the Cable Act.

4. Through the Cable Act, Congress Anticipated that In-Kind Provisions Would be Negotiated and/or Proposed by Cable Operators.

As described above, Congress, through Section 626 of the Cable Act, anticipated that local communities would identify their cable-related needs and interests which in turn would result in the negotiation and/or the proposal by cable operators to provide certain in-kind provisions.⁵⁵ Contrary to the Industry Comments, this process is by no means an attempt to “evade” or “circumvent” the franchise fee cap or an attempt to act contrary to the Cable Act in

merely that a municipality's franchisee cannot attack conditions to which it has consented even if the city “could not have exacted many of these conditions,” that a municipality can levy a rental fee equivalent to a tax when state legislation authorizes it to do so, as in *Broeckl v. Chicago Park District*, and that a municipality’s ownership of public ways entitles it to regulate those ways for the benefit of the public, as in *People ex rel. Armanetti v. City of Chicago*. Regulate—and as we saw, a user fee can be a method of regulation—but not tax.” (citing *Illinois Broadcasting Co. v. City of Decatur*, 238 N.E.2d 261, 265 (1968) (“exactions agreed to ... are not exactions”)); *Lebron v. Sec’y, Fla. Dep’t of Children & Families*, 710 F.3d 1202 (11th Cir. 2013) (highlighting the unilateral nature of an “exaction”); *MCI Commc’ns Servs., Inc. v. City of Eugene, OR*, 359 F. App’x 692, 695 (9th Cir. 2009) (identifying an “exaction” as something compulsory); *Hill v. Kemp*, 478 F.3d 1236, 1245 (10th Cir. 2007) (“In the U.S., ‘tax’ is more generally applied in ordinary language to every federal, state, or local exaction of this kind.” (citing 17 Oxford English Dictionary 677 (2d ed. 1989))); *Nat’l Cable Television Ass’n, Inc. v. F.C.C.*, 554 F.2d 1094, 1106 (D.C. Cir. 1976) (citing *State v. Gorman*, 41 N.W. 948 (Minn. 1889)); *Longshore v. U.S.*, 77 F.3d 440 (Fed. Cir. 1996); *City of Des Moines v. Iowa Tel. Co.*, 162 N.W. 323 (Iowa 1917) (aligning an “exaction” as something extracted pursuant to a municipality’s governmental authority (i.e., a tax) as opposed to the municipality’s proprietary authority); *Phone Recovery Services, LLC v. Qwest Corp.*, No. A17-0078 (Minn. Oct. 31, 2018); *Walton v. New York State Dep’t of Corr. Servs.*, 921 N.E.2d 145, 151 (N.Y. 2009); *Bell Tel. Co. of Pa. v. Bristol Twp.*, 54 Pa. D. & C.2d 419 (Pa. Com. Pl. 1971) (treating an “exaction” as a “tax”); *Burns v. City of Seattle*, 164 P.3d 475, 487 (Wash. 2007) (en banc) (differentiating between taxes imposed by a regulatory authority and payments “voluntarily incurred in the context of a proprietary transaction”). See also Minn. Stat. § 645.44, subd. 19 (defining a tax as an exaction); RCW 35.21.860.

⁵⁵ II.A.2.

any way.⁵⁶ Providing for certain in-kind provisions in cable franchises has been and continues to be allowed under the Cable Act.⁵⁷ As shown in the Initial Comments, this has been the past practice for the past 34 years, and it has no impact on the deployment of cable, telephone, or broadband services.⁵⁸ It will, however, continue to have positive public impacts as shown herein.

5. PEG Capital Costs Are Determined through the Informal and Formal Cable Franchise Renewal Process.

The Industry Comments made several comments urging the FCC to change how PEG capital costs should be determined, including reconsidering prior FCC determinations.⁵⁹ This was not a subject of the FNPRM and is inappropriate for any rulemaking.⁶⁰ The Industry Comments seem to be complaining about PEG capital costs that members of the industry willingly contracted to provide.⁶¹ As described above, local franchising authorities do not mandate the terms of a cable franchise.⁶² Those terms are either negotiated through contract negotiations or are proposed by a cable operator as part of the formal cable franchise renewal process.

6. The Proposed Interpretation of Section 622 Would Render Other Provisions of the Cable Act Meaningless.

Under the provisions of the Cable Act, a local franchising authority may receive a monetary franchise fee capped at 5% of the cable operator's gross revenues and additional

⁵⁶ See Comments of NCTA at 39 & 45; Comments of ACA at 9; and Comments of Verizon at 3.

⁵⁷ See, e.g., Cable Act at §§ 611(b), 622, 624 & 626.

⁵⁸ See Initial Comments at p. 21.

⁵⁹ NCTA Comments at p. 48; ACA Comments at p. 8.

⁶⁰ See Administrative Procedure Act of 1946, Pub. L. 79-404, 60 Stat. 237 (1946) ; 47 C.F.R. §§ 1.412 & 1.413(c).

⁶¹ See, e.g., NCTA Comments at pp. 43-45 (complaining of existing franchise provisions that cable operators willingly contracted to provide).

⁶² II.A.2.

monetary PEG support.⁶³ Verizon argued that “Unless all in-kind assessments are included within the franchise fee cap, the cap itself would be meaningless.”⁶⁴ However, including negotiated in-kind provisions as part of the franchise fee would actually render other sections of the Cable Act meaningless. Sections 611(b), 626, and 623 allow in-kind provisions in cable franchises and further allow a cable operator to recover these franchise requirements as part of a cable operator’s rates.⁶⁵ The FCC’s proposed franchise fee rule would render Section 626 (and countless cable franchises) superfluous and meaningless if the FCC were to adopt a rule contrary to the plain language of Section 622 and 34 years of past practice by allowing negotiated in-kind provisions to be off-set from franchise fee payments. Such a reading goes directly against the well-established rule of statutory construction that precludes interpretation that renders provisions of the statute superfluous.⁶⁶

The Industry Comments also argued that, once negotiated, in-kind provisions can be excluded from the definition of franchise fee only if they are expressly excluded by the Cable Act.⁶⁷ This could result only from a tortured reading of the Cable Act. As shown in the Initial Comments, the analysis of whether negotiated in-kind provisions are part of the franchise fee starts and ends with how Congress defined franchise fee.⁶⁸ There is no presumption in the Cable Act that negotiated in-kind provisions are part of the franchise fee. The Industry Comments presume inclusion of negotiated in-kind provisions as part of the franchise fee and argue that

⁶³ See, e.g., Cable Act at §§ 622 & 611(b).

⁶⁴ See Verizon Comments at p. 4.

⁶⁵ See Initial Comments at pp. 28-30. See also CAPA Comments at pp. 10-11; NATOA Comments at pp. 5-9.

⁶⁶ See *Ratzlaf v. U.S.*, 510 U.S. 135 (1994).

⁶⁷ See, e.g., NCTA Comments at pp. 45-47.

⁶⁸ See Initial Comments at pp. 21-26.

such provisions are excluded only if there is an express exclusion in the Cable Act.⁶⁹ Congress did not include a franchise fee exclusion for negotiated in-kind provisions because, as argued in the next section, it never intended such provisions to be franchise fees in the first place, which is why it allowed the recovery of these provisions through a separate section in the Cable Act.⁷⁰ The analysis argued by the Industry has no basis in the plain language of the Cable Act.

7. The Sparse Legislative History of Section 622 Provides No Support for the FCC's Tentative Conclusion.

The ACA Comments argued that the legislative history supports a determination that negotiated in-kind provisions should be considered part of the franchise fee.⁷¹ However, as shown in the Initial Comments⁷² and bolstered by *City of Dallas*,⁷³ the legislative history of Section 622 is sparse and indicates Congress never intended to deviate from the plain and ordinary usage of the words “assessment” and “imposed.”⁷⁴ According to the House Report,

Subsection 622(g)(2)(c) establishes a specific provision for PEG access in new franchises. *In general, this section defines as a franchise fee only monetary payments made by the cable operator, and does not include as a 'fee' any franchise requirements for the provision of services, facilities or equipment.* As regards PEG access in new franchises, payments for capital costs required by the franchise to be made by the cable operator are not defined as fees under this provision. These requirements may be established by the franchising authority under section 611(b) or section 624(b)(1). In addition, any payments which a cable operator makes voluntarily relating to support of public, educational and governmental access and which are not required by the franchise would not be subject to the 5 percent franchise fee cap.⁷⁵

⁶⁹ See, e.g., NCTA Comments at pp. 45-47.

⁷⁰ See Initial Comments at p. 29.

⁷¹ See ACA Comments at pp. 8-9.

⁷² See Initial Comments at p. 21.

⁷³ See *City of Dallas v. FCC*, 118 F.3d 393 (5th Cir. 1997).

⁷⁴ See Initial Comments at p. 21.

⁷⁵ See Cable Act House Report at 4702 (emphasis added).

The ACA Comments quoted only the last sentence and concluded that it must mean that all non-voluntary PEG support must be part of the franchise fee. However, reading the last sentence with the immediately preceding sentences, the only logical reading would conclude that Congress intended that franchise fees are monetary payments and that PEG support, including “the provision of services, facilities or equipment,” whether contained in a cable franchise or voluntarily provided, are not franchise fees and therefore not subject to the 5% franchise fee cap. This conclusion is supported by many other Commenters in this proceeding, with whom we are in agreement.⁷⁶

8. The FCC’s Proposed Rule on the Franchise Fees Will Likely Have No Positive Impact on Broadband Deployment.

The Industry Comments suggest that changing the franchise fee rules may result in additional broadband deployment and innovation.⁷⁷ It would follow that areas of the country that currently charge less than the franchise fee cap would already see such additional deployment and innovation. But that is not the case. There are cities that charge much less than 5% franchise fee cap.⁷⁸ These cities have not seen better service, lower rates, or more deployment than other cities that charges a 5% franchise fee.⁷⁹ This should be no surprise.

⁷⁶ See e.g., Anne Arundel County *et al.* Comments; NATOA Comments; CAPA Comments; Comments of the League of Minnesota Cities, MB Docket No. 05-311 (Nov. 14, 2018); Comments of Wisconsin Community Media, MB Docket No. 05-311 (Nov. 14, 2018); Comments on Behalf of: the Association of Washington Cities *et al.*, MB Docket No. 05-311 (Nov. 14, 2018).

⁷⁷ See NCTA Comments at p. 28.

⁷⁸ E.g., City of Sioux Falls, South Dakota, *Cable System Franchise Renewal Agreement Between Midcontinent Communications and the City of Sioux Falls, South Dakota* at § 2.8 (2009) (limiting the franchise fee to 2.5% of Midcontinent’s gross revenues), available at <http://docs.sioxfalls.org/sirepub/cache/2/krxark431v0rmdqbk0khmaau/24480111122018094025383.PDF>.

⁷⁹ See *compare id.* with City of Roseville, Minnesota, *Cable Television Franchise Ordinance* (2017) (limiting the franchise fee to 5.0% of Comcast’s gross revenues), available at https://www.cityofroseville.com/AgendaCenter/ViewFile/Agenda/_10092017-22?packet=true.

Following the FCC’s Wireless Order earlier in the year that preempted local authority under the premise it would increase broadband deployment, the industry has stated it would have no impact on deployment rates.⁸⁰ In fact, one industry participant said it planned on cutting back deployment.⁸¹ One Industry Commenter has gone even so far as to suggest that the cost of any build-out terms (other than minimal build-out terms mandated by the Cable Act) must be deducted from the franchise fee.⁸² Needless to say, such a rule would result in less – not more – broadband deployment. For example, the City of Renton, Washington identified areas of its City that were underserved by its cable operator and negotiated informally for service to those areas.⁸³ The result, which would be negated by the FCC’s proposed rulemaking, was the expansion of broadband service in its City. Other than self-serving statements in the Industry Comments, there is nothing before the FCC that supports a rulemaking based on the premise that

⁸⁰ See *In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79 (Rel. Sep. 27, 2018) (herein “2018 Wireless Order”). See Verizon Communications Inc., Q3 2018 Earnings Call Transcript (Oct. 23, 2018), *available at* <https://seekingalpha.com/article/4213544-verizon-communications-inc-vz-q3-2018-results-earnings-call-transcript?part=single> (“Yeah on the 5G rollout certainly we were glad to see the [2018 Wireless Order] around the small cell adoption, doesn’t necessarily increase the velocity that we see. . . . I don’t see [the Commission’s rules] having a material impact to our [5G] build out plans.”); Crown Castle International Corp., Q3 2018 Earnings Call Transcript (Oct. 18, 2018), *available at* <https://seekingalpha.com/article/4212546-crown-castle-international-corp-cci-ceo-jay-brown-q3-2018-results-earnings-call-transcript?part=single> (“So I wouldn’t look at [the 2018 Wireless Order] and assume that we’re going to see a material change in our 18 to 24 month deployment cycle. In fact, we don’t believe that will result.”). Despite Crown Castle’s attempted recanter, earnings releases are regulated activities, and we find statements made in the course of such a regulated activity more likely to be truthful than those made by the Company’s CEO on an unregulated social media platform.

⁸¹ See Verizon Communications Inc., Q3 2018 Earnings Call Transcript (Oct. 23, 2018), *available at* <https://seekingalpha.com/article/4213544-verizon-communications-inc-vz-q3-2018-results-earnings-call-transcript?part=single>.

⁸² See ACA Comments at p. 7.

⁸³ City of Renton, Washington, *Cable Franchise Agreement Between City of Renton, Washington and Comcast Cable Communication Management, LLC and Comcast Cable Holdings, LLC* at § 4 (2014), *available at* <https://renton.civicweb.net/filepro/document/34953/Comcast%20ORD.pdf>.

a rule essentially reducing the franchise fee will result in greater broadband deployment or lower costs to subscribers.⁸⁴ Indeed, under the dual regulatory structure of the Cable Act, cable operators have arguably built the most robust broadband networks in the country.⁸⁵

B. Mixed Use Networks

1. Section 602(7)(C) Cannot Justify The FCC’s Proposed “Mixed-Use” Ruling.

In our Initial Comments, the LFAs argued that the mixed use ruling the FCC proposes in the FNPRM is based on an invalid inference, from the “common carrier exception” to the definition of “cable system” in Section 602(7)(C) of the Cable Act, to the proposition that an incumbent cable operator’s cable system is not subject to regulation by the local franchising authority if it carries broadband Internet access or other non-cable services as well as cable service.⁸⁶ The inference, we noted, comes in ¶ 26 of the FNPRM:

⁸⁴ See Verizon Communications Inc., Q3 2018 Earnings Call Transcript (Oct. 23, 2018), available at <https://seekingalpha.com/article/4213544-verizon-communications-inc-vz-q3-2018-results-earnings-call-transcript?part=single> (“Yeah on the 5G rollout certainly we were glad to see the [2018 Wireless Order] around the small cell adoption, doesn’t necessarily increase the velocity that we see. . . . I don’t see [the Commission’s rules] having a material impact to our [5G] build out plans.”); Crown Castle International Corp., Q3 2018 Earnings Call Transcript (Oct. 18, 2018), available at <https://seekingalpha.com/article/4212546-crown-castle-international-corp-cci-ceo-jay-brown-q3-2018-results-earnings-call-transcript?part=single> (“So I wouldn’t look at [the 2018 Wireless Order] and assume that we’re going to see a material change in our 18 to 24 month deployment cycle. In fact, we don’t believe that will result.”). See also Comcast Corporation, Form 10-K (2017) (“We expect programming expenses for our video services to continue to be our Cable Communications segment’s largest single expense item and to increase for the foreseeable future. . . . *If we are unable to raise our customers’ rates or offset programming cost increases through the sale of additional services or cost management initiatives, the increasing cost of programming could have an adverse effect on our Cable Communications segment’s results of operations.*” (emphasis added)), available at https://www.cmcsa.com/encrypt/files?file=nasdaq_kms/assets/2018/02/01/7-33-55/2017%20Annual%20Report%20on%20Form%2010K.pdf&file_alias=53531.

⁸⁵ See Initial Comments at p. 13 (citing *In the Matter of Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 2018 Broadband Deployment Report, 33 F.C.C. Rcd. 1660, 1680 (2018)).

⁸⁶ See Initial Comments at pp. 43-51.

Under Section 3(51) of the Act, a “provider of telecommunications services” is a “telecommunications carrier,” which the statute directs “shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services. *Thus, an incumbent cable operator, to the extent it offers telecommunications service, would be treated as a common carrier subject to Title II of the Act.* Section 602(7)(C) of the Act, in turn, excludes from the term “cable system” “a facility of a common carrier which is subject, *in whole or in part*, to the provisions of title II of this Act, except that such facility shall be considered a cable system ... to the extent such facility is used in the transmission of [cable service].”⁸⁷

The FCC’s evident reasoning is that if common carrier facilities subject to Title II are excluded from “cable system,” then of course an incumbent cable operator providing telecommunications services over its cable system should “in turn” be treated as a Title II common carrier not subject to LFA regulation under Title VI. This argument has multiple problems, as we set forth in our Initial Comments⁸⁸ and discuss further below. First, it is a non-sequitur: It does not follow from an exception expressly incorporated in Section 602(7)(C) for common carriers, that a counterpart exception, expressly stated nowhere in Title VI or anywhere else in the Communications Act, should apply to incumbent cable operators delivering telecommunications or other non-cable services over their cable systems.

The common carrier exception is plainly stated in the statute; the other, the FCC’s mixed-use rule, is not, and that is all the difference in the world. Again, the crux of the Commission’s analysis, Section 602(7)(C), relates to *Title II facilities*. A cable operator that is not a common carrier cannot be impacted by that section,⁸⁹ and it cannot be the basis for derogating LFA authority to regulate non-cable services delivered over the incumbent’s network.

Secondly, the FCC’s incorrect inference ignores Congress’ reasons for adopting the common carrier exception, clearly stated in the legislative history, and unrelated to the question

⁸⁷ FNPRM at ¶ 26 (emphasis added).

⁸⁸ See Initial Comments at pp. 43-51.

⁸⁹ See *Anne Arundel County et al.* Comments at pp. 41-42.

whether LFAs should be able to regulate non-cable services delivered by an incumbent cable operator over a cable network.⁹⁰ And it ignores differences between Title II and Title VI of the Communications Act that are directly relevant to the scope of LFA regulatory authority.⁹¹ Section 602(7)(C), the crux of the FCC’s argument, defines “cable system” and excepts from “cable system” the “facility of a common carrier which is subject, in whole or in part,” to regulation under Title II. The broadband Internet access service at issue in this proceeding is not a Title II telecommunications service, so by its terms, the “common carrier” exception does not apply to that service. But even assuming it were a Title II service, the fact that an incumbent cable operator offers the service over its cable system cannot transform the cable system itself into a Title II facility subject to the common carrier exception. The difference between Title II and Title VI is essential in this regard. Under common carrier law, the service, not the facility, is the focus of regulation, as argued in the Anne Arundel *et al.* Comments.⁹² As explained in our Initial Comments, Title VI, to the contrary, focuses on the facility, by defining a “cable system” as a communications system that has particular characteristics (e.g. closed transmission pathways, specifically limited interaction) and that is “designed to provide cable service which includes video programming.”⁹³ The cable system is a cable system if it satisfies the defining

⁹⁰ See Cable Act House Report at 4693; Initial Comments at pp. 50-51 (showing that Congress’ stated objective in articulating the common carrier exception was not to relieve cable operators from alleged burdens of LFA regulation of their cable systems to provide broadband internet access, which did not yet exist as a commercial market, but rather to achieve competitive equity between Title II telephone companies and cable operators).

⁹¹ See Anne Arundel County *et al.* Comments at p. 41 (“A cable system remains a ‘cable system’ under Section 602, even when it is used to provide non-cable services, such as information services.” (citing NCTA Ex Parte Letter, WC Docket No. 17-84 (June 11, 2018))).

⁹² *Id.* (“[A] common carrier is such by virtue of his occupation’ . . . one can be a common carrier with regard to some activities but not others. . . . a telecommunications service is defined ‘regardless of the facilities used.’ . . . The Supreme Court has confirmed, ‘[a] cable system may operate as a common carrier with respect to a portion of its service only.’” (citations omitted)).

⁹³ Cable Act at § 602(6).

characteristics of such a communications system, regardless of whether it is used for non-cable, non-Title VI services.⁹⁴ LFA authority to regulate goes with the system – the Cable Act grants authority to LFAs to regulate a communications *system*, in accordance with the Cable Act if it is a cable system.⁹⁵ A common carrier facility is subject to Title II to the extent it offers Title II *services*, regardless of the nature of the facility; and the facility of an incumbent cable operator can be used to provide Title II services without thereby being converted into a common carrier facility excepted from “cable system” that must be regulated under Title II and cannot be regulated by LFAs under Title VI⁹⁶ or sources of local authority outside the Cable Act, such as their police powers and state statutory or common law authority to regulate use of the public rights of way.⁹⁷

2. The Industry’s Call For Preemption Of All LFA Authority To Regulate Incumbent Cable Systems That Carry Non-Cable Services Has No Basis In The Cable Act And Should Be Rejected.

As noted in our Initial Comments, the FNPRM is ambiguous as to whether the proposed mixed-use rule is intended to preempt all LFA authority to regulate an incumbent provider’s cable system to the extent that it carries non-cable service, or is intended to state that LFAs cannot undertake such regulation pursuant to their Title VI authority.⁹⁸ The industry’s comments, notably the comments of NCTA, evidence no such ambiguity, clearly calling on the FCC to adopt a mixed-use rule that preempts all LFA authority to regulate either non-cable

⁹⁴ Indeed, the drafters of the Communications Act acknowledged that a cable system remains a cable system even when it carries non-cable services. *See* Cable Act House Report at 4700.

⁹⁵ Cable Act at § 621(a)(2).

⁹⁶ Anne Arundel County *et al.* Comments at p. 41.

⁹⁷ *See* Initial Comments at pp. 43-51.

⁹⁸ *See* Initial Comments at p. 44. *See also* NATOA Comments at pp. 13-15. The LFAs endorse NATOA’s call for clarification. *Id.*

services provided by an incumbent operator, or the cable system – the facilities and equipment – that are used to deliver them. For example:

Section 621 and multiple reinforcing provisions of Title VI prohibit franchising authorities from regulating the provision of any service offered over the cable systems of cable operators, other than cable service. Consistent with its tentative conclusion, the Commission should find that the mixed-use rule prohibits franchising authorities from regulating non-cable services when offered by cable operators that are not common carriers, *and from regulating the facilities or equipment used to offer those services*. It should further make clear that this prohibition on regulation extends not only to cable franchise agreements and their renewals, but to all franchising authority attempts to regulate these services, and to attempts to regulate these services under any other purported source of authority, even when states and localities claim not to be acting as franchising authorities.⁹⁹

This is not a request for clarification as to the scope of what Title VI authorizes LFAs to regulate. It is an industry call for a mixed-use rule that prohibits all LFA regulation of a cable system that carries non-cable service, whether operated by a common carrier or an incumbent cable operator.¹⁰⁰ NCTA argues at considerable length for the proposition that cable systems can and do carry both cable services and non-cable services,¹⁰¹ and for the further proposition that adding broadband Internet service and other non-cable services to a cable system imposes no incremental burden on the public rights of way or LFA regulation thereof,¹⁰² presumably because

⁹⁹ NCTA Comments at pp. 7-8 (emphasis added). *See also* Verizon Comments at pp. 6-9; ACA Comments at pp. 9-16.

¹⁰⁰ Verizon additionally enjoins the Commission to “take this opportunity to confirm that over-the-top video distributors are immune from legacy cable regulations because they are not ‘cable operators’ and do not provide a ‘cable service’ over a ‘cable system’,” because “[c]onsistent with ruling that LFAs may not regulate non-cable services.” Verizon Comments at p. 9. The LFAs note that this issue is nowhere raised or discussed in the FNPRM and is not before the Commission in this proceeding. It is entirely inappropriate that the Commission accede to Verizon’s request and it should not do so. *See* Administrative Procedure Act of 1946, Pub. L. 79-404, 60 Stat 237 (1946); 47 C.F.R. §§ 1.412 & 1.413(c). Although it is impermissible for the FCC to enact rule changes without prior public notice, such instances are limited to situations where “notice and public procedure are impracticable, unnecessary, or contrary to the public interest.” *Id.* Verizon has failed to show that these requirements have been satisfied.

¹⁰¹ NCTA Comments at pp. 6-36.

¹⁰² NCTA Comments at pp. 22-23.

the same facilities and equipment carry both cable and non-cable services.¹⁰³ To the extent the latter is indeed NCTA's position, the industry is asking that the "facilities and equipment" comprising cable systems be excused from all LFA regulation if they carry non-cable services as well as cable services. That is a remarkable overreach. If the FCC were to follow this directive, it would preempt LFA regulation of the cable system's occupancy of the rights-of-way and its placement of equipment in the ROW, and it would preempt the regulation of cable facilities and equipment that is permitted under Title VI.¹⁰⁴ The first, to take the obvious example in a proceeding about broadband Internet access service, would leave cable operators free to deploy small cell networks on their facilities in the ROW with no regulation as to location, size, numbers, safety, engineering characteristics, or any other aspect of the antennas, cabinets, and equipment comprising them – even as permitted under the FCC's recent Wireless Infrastructure Order.¹⁰⁵ And it would preempt not only "attempts to regulate" under Title VI, but also – NCTA's words – attempts to regulate "under any other purported source of authority, even when states and localities claim not to be acting as franchising authorities."

The Cable Act provisions cited by NCTA do not support this total preemption of local authority over cable systems. According to NCTA, "Since 1984, Section 621(a)(2) has given every franchised cable operator the right to build and operate a cable system for mixed use in the public rights-of-way," the point being that LFAs are prohibited from regulating such "as of right" use of the ROW. In fact, Section 621(a)(2) provides that "[a]ny franchise shall be construed to authorize the construction of a cable system over public rights-of-way." This is an authorization to construct a cable system in the ROW, subject to the grant of a franchise. It

¹⁰³ NCTA Comments at n. 80.

¹⁰⁴ Cable Act at §§ 624 & 636.

¹⁰⁵ See Initial Comments at p. 45.

says nothing about mixed-use networks, the provision of non-cable services over the cable system, or whether LFAs can regulate the system's use of the ROW, as cable franchises commonly provide they can.

According to NCTA, "Section 621(b)(3)(B) bars a state or locality from leveraging its Title VI franchising authority to "prohibit[], limit[], restrict[], or condition[]" the provision of a telecommunications service by a cable operator."¹⁰⁶ In fact, this section provides that "A franchising authority may not impose any requirement *under this subchapter* that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications service by a cable operator or an affiliate thereof."¹⁰⁷ Adding back the italicized words, omitted by NCTA, shows the provision is intended to articulate the authority available to an LFA under the Cable Act, and not as the categorical bar to all regulation of a cable operator's provision of telecommunications service over the cable system that NCTA wants the FCC to find. The provision says nothing about the application of LFA authority derived from local government police powers or state statutory or common law authority, or from any other non-Title VI source. And in fact, local authority to regulate a cable system's use of the rights-of-way does derive from state statutory and common law, as the LFAs explained in detail in Initial Comments.¹⁰⁸

According to NCTA, "Section 624(b)(1) explicitly states that, in connection with a cable television franchise renewal, a "franchising authority, to the extent related to the establishment or operation of a cable system . . . may not . . . establish requirements for video programming or *other information services*," and (since the FCC's construction of "information service" is

¹⁰⁶ NCTA Comments at p. 12.

¹⁰⁷ Telecommunications Act of 1996 at § 303(e), Pub. L. 104-104, 110 Stat. 56, 124 (emphasis added) (herein "Telecommunications Act of 1996").

¹⁰⁸ Initial Comments at pp. 5-19, 43-51.

correct) “[t]he statute therefore *plainly bars franchising authorities from regulating the provision of [broadband internet access service]* [foregoing emphasis added] and other information services by cable operators.”¹⁰⁹ In fact, Section 624 provides that the franchising authority “*in its request for proposals for a franchise ... may establish requirements for facilities and equipment but ... may not establish requirements for video programming or information services ...*”¹¹⁰ Again, even assuming the FCC’s construction of “other information services” is correct,¹¹¹ this provision articulates what an LFA can and can’t do in its RFP for a franchise, i.e. pursuant to its franchising authority under Title VI. It says nothing about the LFA’s power to regulate “information services” under other sources of authority, such as local police powers and state statutory or common law grants of ROW regulation authority, and so does not constitute the global “bar” to LFA regulation that NCTA claims.

According to NCTA, “As amended in 1996, Section 624(e) prohibits state and local governments from limiting the use of particular transmission technologies or subscriber equipment by cable systems, in order to avoid “the patchwork of regulations that would result from a locality-by-locality approach.” As stated in the title of this section of its Comments, this purportedly shows that “[t]he Communications Act bars franchising authority regulation of non-cable facilities or equipment.” But a limit on an LFA’s Title VI authority to prescribe transmission technologies is very far from being the global bar to LFA regulation of cable systems carrying non-cable services, including right-of-way regulation, that NCTA seeks.

¹⁰⁹ NCTA Comments at pp. 11-12 (emphasis added).

¹¹⁰ Cable Act at § 624 (emphasis added)

¹¹¹ Note that Section 624(b)(2) immediately following provides that the LFA “may enforce any requirements contained within the franchise-- ... (B) for broad categories of video programming and other services.” Since “other services” would include information services in the sense of Internet access service, this goes directly against the FCC’s construction of Section 624(b)(1) as barring LFA requirements on such services.

It is clear from this review of its cited Cable Act authority that NCTA overreaches in calling on the FCC to adopt a ruling that preempts all local regulation of incumbent cable networks that carry non-cable services, simply because they carry such services. The FCC should respect the plain language of the Cable Act and reject NCTA's call.

C. The Cable Act Does Not Authorize the Commission to Preempt State Franchising Actions and Regulations as Proposed in the NPRM

As previously discussed in the Initial Comments, the Cable Act does not grant the Commission the authority necessary to preempt state and local law as proposed in the NPRM.¹¹² To the contrary, the Cable Act expressly recognizes and does not disturb state and local franchising authority.¹¹³ Nevertheless, NCTA and Verizon claim that the Commission must expressly preempt state franchising actions and regulations because: (1) the Commission's regulations would not otherwise take effect and (2) disparate state regulations cause an undue regulatory burden on cable operators. Both of these claims are inaccurate, illogical, and without merit.

First, NCTA claims that unless the Commission expressly preempts state franchising actions and regulations, any Commission regulation affecting franchise fees or mixed-use networks would fail to take effect.¹¹⁴ If, *arguendo*, the Commission possessed the necessary authority to enact its proposed regulations, these regulations would clearly preempt state franchising actions and regulations under the Supremacy Clause.¹¹⁵ NCTA has failed to cite any evidence or offer even a bald statement as to how the Commission's regulations would fail to preempt state franchising actions and regulations. Instead, NCTA appears to be seeking plenary

¹¹² Initial Comments at pp. 51-56.

¹¹³ *Id.*

¹¹⁴ NCTA Comments at pp. 62-64.

¹¹⁵ U.S. CONST. art. vi, cl. 2.

preemption of state franchising actions and regulations beyond the NPRM's scope in an effort to collaterally eliminate or further reduce a telecommunications provider's costs while also improperly limiting state and local authority to manage the rights-of-way.¹¹⁶

Regardless, as previously discussed in the Initial Comments, the Commission does not possess requisite authority to promulgate its proposed regulations. The Commission cannot use its Title I or Title II authority to enact Title VI regulations.¹¹⁷ Perhaps recognizing this point, NCTA has conflated these multiple sources of Commission authority in an attempt to rationalize the Commission's otherwise improperly proposed actions.¹¹⁸ For example, NCTA cites a Texas statute as requiring \$25 million per year in right-of-way fees from cable operators to provide voice services.¹¹⁹ NCTA posits that this statute is exemplary of the unreasonable nature of franchising authorities to demand "in-kind exactions above and beyond payment of a five percent franchise fee."¹²⁰ Not only is this \$25 million amount not expressed by Texas law, but these fees do not apply to cable operators and are therefore beyond the Cable Act's purview.¹²¹ Followed to its logical conclusion, NCTA is essentially claiming that if a telecommunications service provider complies with Title VI, the service provider is automatically exempt from every other provision of the Communications Act (i.e., regulation of cable services precludes parallel

¹¹⁶ NCTA Comments at p. 35.

¹¹⁷ Initial Comments at pp. 55-56.

¹¹⁸ NCTA Comments at p. 63.

¹¹⁹ *Id.*

¹²⁰ *Id.* at p. 42.

¹²¹ Telecommunications Act of 1996 at § 651(a)(2) ("To the extent that a common carrier is providing transmission of video programming on a common carrier basis, such carrier shall be subject to the requirements of subchapter II and section 572 of this title, but shall not otherwise be subject to the requirements of this subchapter."). Tex. Local Government Code § 283.002(2) (1999) ("'Certificated telecommunications provider' means a person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the commission *to offer local exchange telephone service or a person who provides voice service.*" (emphasis added)); 16 Tex. Admin. Code § 26.467 (2003). See II.B.

regulation of information services).¹²² This is clearly untrue and contrary to all sources of applicable law.¹²³

Second, Verizon claims that it is confusing and unduly burdensome for cable operators to comply with disparate state regulations, citing the Commission’s reasoning found in the *Second Report and Order*.¹²⁴ As previously discussed in the Initial Comments, the Cable Act recognizes and encourages the existence of state franchising actions and regulations in order to more effectively address local and hyperlocal cable franchising issues.¹²⁵ It is simply neither feasible nor practical for the federal government to address these diverse issues in a uniform manner.¹²⁶ Moreover, the *Second Report and Order* language cited by Verizon was not only vacated by the *Montgomery County* court, but Verizon also mischaracterizes this language.¹²⁷ This language only addresses *when* new cable franchise regulations should take effect (i.e., regulations should immediately apply to all franchises, not individually applied to a franchise after renewal).¹²⁸ The Commission language cited by Verizon does not address, discuss, or even contemplate the Commission’s dual regulatory system.¹²⁹

¹²² Telecommunications Act of 1996 at § 303(a)(3)(A)(ii) (“If a cable operator or affiliate thereof is engaged in the provision of telecommunications services . . . the provisions of this title shall not apply to such cable operator or affiliate for the provision of telecommunications services.”).

¹²³ See II.B.

¹²⁴ Verizon Comments at p. 12 (citing *In the Matter of Implementation of Section 621(a)(1) of the Cable Commc’ns Policy Act of 1984 As Amended by the Cable Television Consumer Prot. & Competition Act of 1992*, 22 F.C.C. Rcd. 19633, 19642 (2007) (herein “Second Report and Order”)).

¹²⁵ Initial Comments at p. 51-56.

¹²⁶ *Id.*

¹²⁷ *Montgomery County, Maryland v. FCC*, 863 F.3d 485 (2017). Verizon Comments at p. 12.

¹²⁸ Second Report and Order at 19642 (“We do not see, for example, how Section 622 could mean different things in different sections of the country *depending on when various incumbents’ franchise agreements come up for renewal*.” (emphasis added)).

¹²⁹ *Id.* See Initial Comments at p. 7.

Furthermore, it is simply untrue that disparate state regulations have imposed an undue burden on Verizon. Not only does Verizon fail to cite any evidence supporting this position, but, under the current “burdensome” regulatory landscape, Verizon has instead developed a robust portfolio of cable systems throughout the United States.¹³⁰ These cable systems have been additionally leveraged to deliver non-cable services, dramatically increasing the revenue derived from a single set of telecommunications facilities constructed pursuant to a cable franchise.¹³¹ As a result, Verizon has tripled its annual net income since 2010.¹³² It is clear that the current regulatory landscape has not “[led] to confusion among . . . franchisees” as Verizon has suggested or imposed undue regulatory burdens that obstruct the cable franchising process.¹³³ While the Cable Act does not grant the Commission authority to preempt state franchising actions and regulations as proposed in the NPRM, neither NCTA’s nor Verizon’s claims hold any merit, and neither party provides any semblance of support for their claims. It is simply

¹³⁰ Moreover, whether a law or regulation is unduly burdensome is a question of law that would be inappropriate for the Commission to decide. *See U.S. v. Lopez*, 514 U.S. 549 (1995). *See also Klebe v. U.S.*, 263 U.S. 188 (1923) (implying the presence of a bargain-for contract based on the parties’ conduct).

¹³¹ Verizon Communications Inc., *Form 10-K* (2017) (“ . . . building out multi-use fiber to expand the future capabilities of both our wireless and wireline networks while reducing the cost to deliver services to our customers and pursuing other opportunities to drive operating efficiencies.”).

¹³² *See, e.g., Philadelphia, Pennsylvania, Cable Franchise Agreement Between City of Philadelphia and Comcast of Philadelphia, LLC, Comcast of Philadelphia II, LLC* (2015), available at <https://phila.legistar.com/View.ashx?M=F&ID=4160967&GUID=CFA9C658-6CBE-4521-BAF1-6A3F47C06C25>. In 2010, Verizon reported a net income of \$10,217,000,000 (\$11,491,680,000 adjusted for CPI inflation) and a net income of \$30,550,000,000 in 2017. Verizon Communications Inc., *Condensed Consolidated Statements of Income* (2017), available at <https://www.verizon.com/about/file/25553/download?token=az7JPvqO>; Verizon Communications Inc., *Condensed Consolidated Statements of Income* (2011), available at <https://www.verizon.com/about/file/889/download?token=LlpPvF0l>.

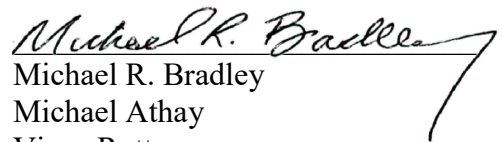
¹³³ Verizon Comments at p. 12. Verizon also states that consumers will be harmed by disparate state regulations but fails to support this statement. It is unclear how state regulations designed to more effectively address local and hyperlocal cable franchising issues will harm consumers. Verizon Comments at p. 12. *See Anne Arundel County et al.* Comments at p. 45; Comments of Wisconsin Community Media at p. 4, MB Docket No. 05-311 (filed Nov. 14, 2018).

inaccurate and illogical to claim that: (1) validly enacted federal regulations are subservient to state and local law and (2) disparate state regulations cause an undue regulatory burden on cable operators. These claims are unsupported by evidence and are incorrect as a matter of law. Instead, NCTA and Verizon invoke the nebulous falsity of unreasonable state franchising actions and regulations that impede cable franchising despite the fact that cable operators across the country continue to report ever-increasing revenues. There is a clear disconnect between NCTA's and Verizon's claims and observed reality. Thus, the Commission should find neither of these claims persuasive, and the Commission cannot rely on its Cable Act authority to preempt state franchising actions and regulations as proposed in the NPRM.

III. CONCLUSION.

For the foregoing reasons, the Commission should refrain from adopting the proposed rules relating to franchise fees, mixed-use networks and state preemption.

Respectfully submitted,



Michael R. Bradley
Michael Athay
Vince Rotty
Bradley Berkland Hagen & Herbst, LLC
2145 Woodlane Drive, Suite 106
Woodbury, MN 55125
(651) 379-0900
mike@bradleylawmn.com

Attorneys for the LFAs

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EXHIBIT A. DECLARATION OF THOMAS G. ROBINSON

DECLARATION OF THOMAS G. ROBINSON

A. Introduction

1. I, Thomas G. Robinson, am President and CEO of CBG Communications, Inc. (“CBG”).
CBG has provided cable television, telecommunications, broadband and right-of-way management consulting services to the City of Philadelphia (“City”) since 2001 (and via a predecessor company, since 1998). In that time, I have become very familiar with the City’s cable television franchise agreements and franchisees (Comcast and Verizon), including assisting the City with franchise negotiations and franchise agreement development with Verizon in the late 2000s, and most recently (after developing a thorough Community Needs Ascertainment¹ for the City in 2013 and 2014), assisting in intensive franchise negotiations to develop the current Comcast Franchise renewal agreement, signed in early 2016.
2. As part of my long-term involvement with the City in cable television franchising and administration, I have become familiar with the Public, Educational and Governmental (“PEG”) Access Channels and channel operators in the City, including detailed review of their current and future needs and the community needs and interests they serve, recently as part of the Community Needs Ascertainment for the latest Comcast Franchise renewal.

¹ See “Report on Cable Television-Related Needs and Interests, and System Technical Review, in the Comcast Franchise Areas of the City of Philadelphia, Pennsylvania”, prepared December 31, 2014, publicly released April 6, 2015 (hereinafter “Philadelphia NAR”).

3. Based on this longstanding relationship and involvement with, and understanding and knowledge of, the City of Philadelphia cable franchise and PEG Access Channel environment, I and CBG are providing the following information in support of the Initial Comments and foregoing Reply Comments of the City of Philadelphia et al. in the Federal Communications Commission's ("FCC's") *Second Further Notice of Proposed Rulemaking In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, in MB Docket No. 05-311, as set forth below:

B. *Philadelphia's PEG Channel Franchise Requirements are Based on a Thorough Community Needs Ascertainment*

1. CBG worked with the City beginning in early 2013 and continuing through the end of 2014 to gather a wealth of information as part of a thorough Community Needs Ascertainment. This information was compiled, reviewed, compared and analyzed, and multiple conclusions were reached and recommendations made related to the needs assessed. The Report was released publicly in April of 2015. A substantial portion of the Community Needs Ascertainment was focused on current and future needs and interests related to Public, Educational and Governmental Access and all of its constituencies, including PEG facility and equipment users, programmers, channel operators, video producers and residents/subscribers/viewers of PEG Access Channels. In fact, 77 pages of the 200-page Report and an additional 11 Exhibits encompassing an additional 263 pages focused on PEG Access.

2. The PEG Access Channels in Philadelphia include: Public Access Channels operated by PhillyCAM; a K-12 Educational Access Channel operated by the School District of Philadelphia (“SDP”); Higher Educational Access Channels including La Salle TV operated by La Salle University (“LaSalle”), DUTV operated by Drexel University (“Drexel”), TUTV operated by Temple University (“Temple”) and CCP-TV operated by the Community College of Philadelphia (“CCP”); and the City’s Government Channel.
3. A variety of research methods were used during the Community Needs Ascertainment to ensure that a diversity of information was gathered, including onsite facilities and equipment reviews; interviews with staff, management and administrators; focused discussions with individual and organizational users of Access facilities and equipment; and surveys of the constituencies served by the Access Channel operators. This included a number of questions posed to residents/subscribers/viewers (as well as non-subscribers) concerning the Access Channels. All of this information was folded into the review, analysis, conclusions and recommendations.
4. Notably, Comcast cable subscribers, regardless of how often they watched the Channels (from “never” to “more than 5 hours per week”) thought that it was important that these Channels be available to all subscribers on the cable system. Thirty-four percent (34%) indicated that it was “very important”, and 26% “important”. In fact, 84% indicated some level of importance.²

² Philadelphia NAR, Page 41.

5. Overall, the Community Needs Ascertainment identified the need for:

- Continuation of Standard Definition (“SD”) PEG Channels
- Implementation of High Definition (“HD”) Access Channels
- Provision of Access Channel programming in a video on demand format over the cable system
- Funding for capital facilities and equipment over the projected life of a renewed franchise

6. These needs were encompassed in the PEG Access Conclusions and Recommendations Section of the Report.³ As clearly indicated in these Conclusions and Recommendations, “CBG’s recommendations and how these needs should be fulfilled are detailed below and *should be pursued with Comcast during franchise renewal negotiations.*”⁴

7. It was understood by all that, while these needs were fully demonstrated and supported, the channel capacity, facilities and equipment necessary to meet these needs ***could not be imposed, but rather must be negotiated.***

³ Philadelphia NAR, Pages 117-121.

⁴ Philadelphia NAR, Page 117.

C. Cable Franchising and Negotiations to Meet Demonstrated Needs

1. The Cable Communications Policy Act of 1984, as amended (“Cable Act”), establishes the procedures for cable franchising and in Section 626, contemplates two processes, commonly called the “informal process” and the “formal” process, for renewal of a cable franchise. The informal process enables franchise negotiations on the terms and conditions of a new franchise to be conducted in an informal manner, following procedures, time tables, provision crafting and agreement drafting, agreed to by the two parties, the local franchising authority (LFA) and the cable operator. In my experience, involvement in cable franchising and knowledge of initial franchise development and cable franchise renewal processes around the country since the passage of the Cable Act, at least 99% of all cable franchises are developed using the informal process. In fact, while cable operators typically stipulate their right to the formal process when they enter the 36-month renewal window, they often stress that they want to negotiate a franchise using the informal process.⁵
2. The formal process typically occurs when the LFA and the cable operator reach an impasse and cannot move forward without at least initially taking the steps required by the formal procedures described in Section 626 of the Cable Act. In essence, these procedures require a request for renewal proposal (RFRP) to be developed by the LFA; the cable operator to respond in detail to the information required by the RFRP; the LFA to review the cable operator’s proposal and then vote up or down whether to accept the

⁵ See Appendix 5 – January 3, 2018 letter from Comcast to the North Metro Telecommunications Commission indicating that “we prefer to reach a mutually satisfactory agreement through informal negotiations”

proposal. If the proposal is not accepted, then the franchise is preliminarily denied. After that, testimony and evidence are presented before a hearing examiner who will issue a ruling as to whether the initial denial was rendered properly, consistent with the Cable Act procedures, the operator's reasonable proposal to meet community needs, and the evidence and testimony presented during the proceeding. Regardless of the hearing examiner's position, if renewal is denied, the cable operator can seek federal judicial review of the LFA's position and the hearing examiner's decision. Regardless of the steps that are taken, nearly all franchise renewals that go into the formal process end up being resolved through informal negotiations.

3. In fact, initiation of the formal process almost always brings both parties back to the informal negotiating table. I have been a part of many franchise negotiations, and only five (5) have gone into the formal process. All of those were ultimately resolved, and renewed franchise agreements developed, through informal negotiations. What all this means, is that LFAs and cable operators work diligently to achieve PEG Access and other provisions in franchises that both parties find acceptable. Even when the formal process is implemented, both parties often continue to work diligently to reach agreement informally. In fact, cable operators will continue to take steps to not have the LFA, a hearing examiner, or even the Federal Court "impose" obligations on them. In any event, the formal process is hardly a unilateral imposition of obligations on the franchisee by the LFA. The LFA's RFRP, the franchisee's responding proposal, the hearing before a neutral examiner, and judicial review of any denial, are all designed to ensure that the

LFA cannot unilaterally impose renewal terms or otherwise dictate the outcome, any more than it can dictate the outcome of informal negotiations.

4. In Philadelphia's case, after public release of the Needs Ascertainment Report, negotiations with Comcast ensued. These were intense negotiations covering multiple facets of franchise renewal (e.g., Customer Service Standards, system technical provisions, right-of-way management provisions, a gross revenues definition for franchise fees, Institutional Network provisions and PEG Access provisions). These negotiations took nearly 9 months and were completed just prior to the end of December 2015, with the Franchise fully executed in January 2016. Literally hundreds of task hours were spent on both sides of the negotiating table reviewing and discussing the needs demonstrated, various ways to meet those needs and the cost of meeting those needs.
5. It is a critical point to note that **at no time did the City of Philadelphia "impose"** PEG Channel capacity, equipment and facility obligations on Comcast. These were fully and freely negotiated, discussed, reviewed, and vetted in detail by both parties' staff and by both inside and outside experts before negotiated provisions were incorporated in the Franchise.
6. In the case of PEG Access, for example, while the Needs Ascertainment identified the need for HD Channels for all the current and projected Public, Educational and Governmental Access Channels, it was determined through negotiations that this would be a higher capacity burden than Comcast believed it should bear in order to meet the

City's needs. Accordingly, a compromise was reached that entailed a subset of the current and projected SD Channels being provided in HD.

7. PEG capital facilities and equipment needs were well supported and identified in the Needs Ascertainment. However, Comcast indicated that it believed that the cost of meeting those needs would be too much of a burden on its subscribers, and responded with a much lower capital funding proposal. This was discussed back and forth for months, including detailed review of equipment projections and additional discussions with the various PEG Access operators to determine if a compromise could be reached. It was, and then that amount, equating at that time to 48 cents per subscriber per month over the life of the Franchise, was incorporated in the Franchise.
8. In Verizon's case, when its Franchise was negotiated in 2009, the benchmark for its Franchise provisions was the Comcast Franchise in existence at that time. Verizon, in many cases, matched the requirements of Comcast's Franchise based on competitive equity, and in other cases, provided equivalent provisions. In order to arrive at a Franchise that the City and Verizon believed was fair and that enabled Verizon to implement a cable system that would be able to provide true competition to Comcast and offer consumers a choice, many months of negotiations were necessary. **At no time did the City impose obligations** on Verizon. Rather, the provisions in its 2009 Franchise were fully and freely negotiated before incorporation in the Franchise as Franchise provisions. Since that Franchise was signed, Verizon has invested millions of dollars in building its infrastructure in Philadelphia and providing service to tens of thousands of

subscribers. While Comcast currently maintains the dominant market share in its home City of Philadelphia, Verizon has met expectations and is a viable competitor in Philadelphia. Clearly, its agreement to furnish PEG capacity and other in-kind provisions have not hampered Verizon's ability to compete for cable subscribers in Philadelphia. Additionally, **at no time were** even the existing **obligations** of Comcast *imposed on Verizon*. Everything was negotiated and agreed to freely before being incorporated into Verizon's Franchise.

D. PEG Access Franchise Provisions Benefit the Entire Philadelphia Community

1. Such a thorough Community Needs Ascertainment was performed by the City, followed by hundreds of hours of back-and-forth franchise negotiations, incorporating review and discussion, analysis, re-review, more discussion, further analysis and finally agreement, on a host of terms and conditions including PEG Access provisions, because provisions like PEG Access capacity and capital support are negotiated on behalf of the entire Philadelphia community and not just for the benefit of the LFA itself, as the cable industry frequently contends.
2. For example, a large part of the PEG Access Needs Assessment was devoted to the needs and interests of Philadelphia Community Access Media ("PhillyCAM"). PhillyCAM was developed during the mid 2000s and has evolved into a well supported, highly diverse, Community Access Media provider that is fully integrated into the Philadelphia community. Specifically, at this point, hundreds of individuals and a diverse multiplicity

of community organizations have taken advantage, and are continuing to take advantage, of its training, facilities and equipment to produce thousands of hours of Philadelphia community-centric programming.

3. These individuals and organizations do not have other alternatives for video production facilities, services and training. As such, they benefit greatly from the capacity that is available to PhillyCAM as a result of the freely negotiated PEG provisions in the Verizon and Comcast Franchises. This capacity would become unavailable, because it would be made unaffordable for the LFA, if in-kind provisions are set off against the franchise fee as proposed by the FCC. The many individuals and organizations relying on PhillyCAM channels and facilities, and all of the constituencies they represent, as well as such individuals, organizations and constituencies to come in the future, would be harmed enormously as a result of the FCC's proposed rules. **While, this may not be the intent of the FCC, it will certainly be the effect.**
4. I have attached letter statements from 27 organizational members of PhillyCAM describing their work on behalf of Philadelphia communities and how that work depends on PhillyCAM's facilities and resources.⁶ All of these community organizations strongly oppose the FCC's proposed rules setting off in-kind PEG provisions against the franchise fee as directly, and very negatively, affecting their ability to serve their constituencies. In

⁶ A number of the letters state support for the initial Comments filed in this proceeding by The Alliance for Communications Democracy, the Alliance for Community Media, et al., identified therein as the "Cable Act Preservation Alliance" or "CAPA". The Reply Comments of the City of Philadelphia et al., to which this Declaration is attached, endorse and support CAPA's Comments (*see* Note 10, p. 2). As to the effect of the FCC's proposed in-kind set-off rule on public access channels, the City of Philadelphia et al. Comments are directly supported and confirmed by this extensive testimony from PhillyCAM's community organization members.

particular, their testimony makes it very clear that PEG channels and facilities do not solely or primarily benefit the local governmental entity that is the LFA. The beneficiaries are the Philadelphia citizens, many of them in minority and low-income communities that these organizations serve.⁷

5. Similarly, the Educational Access Channels in Philadelphia would be substantially harmed by the FCC's proposed rules. They, likewise, are the beneficiaries (as are all their constituencies, including students, faculty, administrators, parents and the community entities which benefit from outreach and promotion provided by the Educational Access Channels) of the Educational Access provisions in the Philadelphia franchise. For example, the School District of Philadelphia ("SDP"), as noted in the Philadelphia NAR,⁸ was going through a transition for its Access Channel ("PSTV") during the Needs Ascertainment review. As SDP noted, it had plans to substantially evolve, upgrade and bolster PSTV early in the new Comcast Franchise. This was reiterated specifically in a meeting with Comcast in August of 2015, prior to reaching final agreement on overall PEG capacity and capital support requirements, and the

⁷ See Appendix 1, letter of support for the City of Philadelphia et al. Comments from PhillyCAM. *See also* statements of the Greater Philadelphia Cultural Alliance; Liberty Resources; Philadelphia Jobs with Justice; CultureWorks Commons Management; Resolve Philadelphia; Free Library of Philadelphia; People's Emergency Center; Philadelphia FIGHT Community Health Centers; Taller Puertorriqueno, Inc.; Philadelphia Association of Community Development Corporations; BlackStar Film Festival; FAB Youth Philly; Philadelphia Neighborhood Networks; Spiral Q; Philadelphia Young Playwrights; South Philadelphia Prevention Coalition; March on Harrisburg; JEVS Human Services; Juvenile Law Center; Al-Bustan Seeds of Culture; Lil' Filmmakers; Leeway Foundation; Philadelphia Association of Black Journalists; Philadelphia Asian American Film Festival; Play On Philly; Termite TV Collective; and The Workshop School. Additionally, PhillyCAM has already filed Comments in this Proceeding that are consistent with this Declaration and the City of Philadelphia's position on the FCC's proposed rules.

⁸ Philadelphia NAR, Page 103.

demonstrated benefit to Philadelphia public school students was a significant factor in reaching that agreement.

6. Notably, SDP has achieved these goals and more with PSTV. CBG understands that SDP is separately filing Reply Comments in this Proceeding and will provide detail on what it has accomplished with PSTV and how important PEG capacity and related requirements are, not only to SDP itself, but to the hundreds of thousands of students that it serves in Philadelphia.
7. The same is true for the four higher educational institutions in Philadelphia that provide programming over their Educational Access Channels. For example, the Community College of Philadelphia (CCP) provides programming produced by department staff, hosted by college faculty and that involves students in both production and post production activities. Such programming focuses on issues related to the College, educational programs developed by the faculty and a variety of different types of series programs developed by students. Multiple constituencies at CCP would be disenfranchised if negotiated PEG capacity was no longer available or was unaffordable. As stated by CCP in comments included as Appendix 2, the FCC's proposal impacts CCP's "ability to provide the unique programming that serves the Philadelphia community by providing a venue for the diverse stories of our faculty, students, and wider community". Further, "the loss of these voices and stories would be a loss to the civic life of Philadelphia".⁹

⁹ See Appendix 2, Comments of Community College of Philadelphia.

8. La Salle University's La Salle TV is similar in that it focuses on a variety of educational, informational and entertainment programming. This programming covers not only academic issues that broadcast the views, perspectives and activities of La Salle's faculty, staff and students, but also involves the larger community, focusing on programming about and by residents of surrounding neighborhoods. Again, it is important to note that not just the University, but multiple constituencies, including the surrounding community, would be disenfranchised if capacity for La Salle TV was no longer available or became unaffordable. More detail on La Salle TV is provided in the attached comments from La Salle.¹⁰
9. Drexel University's DUTV is an integral part of the curriculum in the Westphal College of Media Arts and Design, in both the undergraduate program in television and its graduate television management program. Specifically, students are involved in all aspects of television program production, and the College looks to integrate a student's academic experience with a co-op learning program which establishes a strong connection between the classroom, hands-on video production at Drexel and practical experience in the professional world. The television production and television management curricula center on DUTV as a laboratory for practical knowledge and developing student skills. Drexel's programming is award winning, and many of its students go on to successful careers in media. By threatening loss of Drexel's channel, the FCC's proposed in-kind offset rules would not only impact the University's graduate

¹⁰ See Appendix 3, Comments of LaSalle University.

and undergraduate educational program, but also the career paths of many Drexel students.

10. TUTV is Temple University's Access Channel. It was launched specifically to provide higher education programming that was responsive to the needs of the general Philadelphia community as well as to meet Temple's mission as a higher educational institution. Like the other higher educational institutions, the FCC's proposed rules affect not just the University itself, but the many constituencies served by TUTV, as well as the Philadelphia community at large that Temple works to serve. For example, Temple states that the proposed rules would limit "the number of voices who can avail themselves of these vital platforms for public education, community engagement and personal expression" and that TUTV "would be less able to connect our students with our community partners". More detail on Temple University Television and their support for the City's position in the Proceeding can be found in the Appendices.¹¹

11. All in all, it could not be clearer that the FCC's notion that PEG Access capacity provisions only benefit LFAs is wrongheaded and could not be farther from reality.

E. Conclusion

1. Based on my experience over the years with the City of Philadelphia related to cable franchising and administration, and my detailed review, analysis and assessment of the

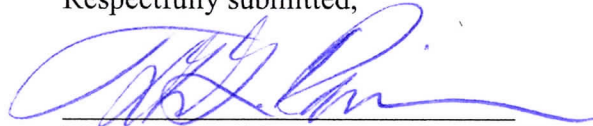
¹¹ See Appendix 4, Statement of Temple University.

PEG Access Channel operators in Philadelphia, it is my and CBG's opinion that the FCC's proposals would have a far-reaching and irreversibly damaging effect on the Philadelphia community as a whole. In my opinion, the FCC must reach different conclusions and not put PEG capacity and other in-kind provisions in Philadelphia's franchises in jeopardy.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 14, 2018

Respectfully submitted,



Thomas G. Robinson - President & CEO
CBG Communications, Inc.
73 Chestnut Road, Suite 203
Paoli, PA 19301
Tel. (610) 889-7470
www.cbgcommunications.com

Thomas G. (Tom) Robinson is President and CEO of CBG Communications, Inc. For over 3 decades, he has worked with local governments and other public-sector entities across the United States on broadband, cable television, telecommunications and right-of-way (ROW) management projects. He is a frequent speaker at telecommunications, local government and technical conferences. Prior to joining CBG, Mr. Robinson was Director of Technology Development for River Oaks Communications Corporation, and he also served for 10 years as Chief of the Cable Regulatory Division for Fairfax County, Virginia. He also worked as a System Designer and then in product management for Magnavox CATV Systems, Inc. (acquired by Arris), and began his career in radio and television in Baltimore, Maryland and Syracuse, New York. He is a graduate of Syracuse University and Towson University and now splits his time between the New York Metropolitan and Philadelphia Metropolitan area offices. Mr. Robinson brings to CBG extensive experience in telecommunications, cable television, broadband, technology review, analysis, survey and other project tasks; performing needs assessments; negotiating with industry providers; meeting and working with local elected and appointed officials and staff personnel; facilitating the activities of Advisory Committees (including both public and private sector representatives); and making presentations to City and County Councils, Commissions and Boards.

APPENDICES

Appendix 1

Statements of Philadelphia Community Access Media (“PhillyCAM”) and Organizational Members:

Greater Philadelphia Cultural Alliance; Liberty Resources; Philadelphia Jobs with Justice; CultureWorks Commons Management; Resolve Philadelphia; Free Library of Philadelphia; People’s Emergency Center; Philadelphia FIGHT Community Health Centers; Taller Puertorriqueno, Inc.; Philadelphia Association of Community Development Corporations; BlackStar Film Festival; FAB Youth Philly; Philadelphia Neighborhood Networks; Spiral Q; Philadelphia Young Playwrights; South Philadelphia Prevention Coalition; March on Harrisburg; JEVS Human Services; Juvenile Law Center; Al-Bustan Seeds of Culture; Lil’ Filmmakers; Leeway Foundation; Philadelphia Association of Black Journalists; Philadelphia Asian American Film Festival; Play On Philly; Termite TV Collective; and The Workshop School.



699 Ranstead St. | Philadelphia, PA 19106

PHONE 267.639.5481

FAX 267.639.5482

PHILLYCAM.ORG

December 12, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We at PhillyCAM write to support the Initial Comments of the City of Philadelphia et al. and oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311."

PhillyCAM is the non-profit that operates the City of Philadelphia's public access television and is the license holder of the low power FM radio station WPPM 106.5 FM. Founded in December 2007, PhillyCAM has evolved into a facilitator, creator, aggregator, and distributor of hyper local media that reflects Philadelphia's cultural diversity. Our mission is to bring together the people of Philadelphia to make and share media that promotes creative expression, civic engagement and democratic values.

We offer free to low cost access to video production training, free access to High Definition TV and audio/radio studios and equipment, media production project support for non-profits, youth programs, community meeting space, producer networking events and distribution of locally produced content on cable television and low power FM radio. We build community through media making with a goal of increasing the digital literacy of Philadelphians while embracing the full range of ages and socioeconomic groups in the City.

Our impact extends to the entire City through community collaborations with cultural organizations, non-profits and City departments by amplifying their work through media and providing a platform for free expression. We are a valued and trusted collaborator for our deep roots in community and work across many sectors from criminal justice reform to labor justice to arts and culture.

We have advocated for people with disabilities by helping them use media to visibly demonstrate their needs and values more broadly. Local journalists and public media organizations recognize PhillyCAM as a critical channel providing opportunities for diverse media storytellers to find an outlet.

Youth media organizations recognize PhillyCAM as being essential in amplifying the voices of young people. Through the process of creating media young people develop their individual voices, gain confidence, learn to work collaboratively, and acquire important technical and life skills they can apply in school and in the workplace.

In a recent focus group participants expressed how prior to coming to PhillyCAM they felt that traditional media was closed off to people and only focused on sensationalizing news instead of reporting on more authentic stories. They expressed feeling a shared vision at PhillyCAM and that anyone can produce and share content. One member commented that everything instructional can be found on YouTube, but at PhillyCAM you “walk into YouTube.”

In only 9 years since going on the air in 2008, we have seen outlets for local media content continue to shrink while the digital divide, income inequality and poverty rates in Philadelphia continue to rise. PhillyCAM has provided a much-needed platform for these disenfranchised communities share their perspectives on issues that impact them.

By defining “franchise fee” in an overly broad fashion to include “in-kind” support, the FCC’s proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

A handwritten signature in black ink, appearing to read "Gretjen Clausen". The signature is stylized with a large, sweeping initial "G" and a long, horizontal flourish extending to the right.

Gretjen Clausen
Executive Director

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December 13, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Chairman Pai,

Liberty Resources Inc. writes to support the Initial Comments of the City of Philadelphia set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket 05-311.

Liberty Resources is a center for independent living for seniors and people with disabilities in the Philadelphia area. We help thousands of people find the supports and services they need to live independently in the communities of their choice.

PhillyCAM has helped us advocate for people with disabilities by widening our audience and visibly demonstrating our needs and values. Through its citywide public TV and radio stations it amplifies our call to the public, to educators, and to lawmakers who gate keep our fundamental needs that include health care, accessible transportation, and affordable housing.

The local presence of PEG channels enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local

community needs and interests, and strengthen our local democracy.

By defining "franchise fee" in an overly broad fashion to include "in-kind" support, the FCC's proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

Thomas H. Earle, Esquire
Chief Executive Officer
Liberty Resources

cc: Gretjen Clausing, Executive Director PhillyCAM
Pascale Vallee, Board Member PhillyCAM



December 12, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We are writing to support the Initial Comments of the City of Philadelphia et al. and oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311."

Philadelphia Area Jobs with Justice is a coalition of labor unions and student, community, and faith groups. Together, we fight for the fair treatment of workers, organizing in local communities and workplaces.

We believe that it is critical for working people to have access to the tools they need to tell their own stories. This access enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

By defining "franchise fee" in an overly broad fashion to include "in-kind" support, the FCC's proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

!

A handwritten signature in black ink, appearing to read "Devan Spear".

Devan Spear
Executive Director
Philadelphia Jobs With Justice



December 12, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We CultureWorks Commons Management (CultureWorks) write to support the Initial Comments of the City of Philadelphia et al. and oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311."

CultureWorks is a nonprofit, management commons serving nearly 300 member organizations and projects in the arts, heritage, and creative fields in the Greater Philadelphia region. These projects represent close to 10,000 individual beneficiary constituents. Additionally, we are in the process of expanding our model and membership to other cities and regions across the country.

Among our members are a number of independent, public trust media producers that utilize PEG channels and the services of PhillyCAM, which has emerged as the *only* solution to provide true access for smaller organizations and independent producers of public benefit content, not to mention the many thousands that benefit from access to public content. Both the PEG channels and PhillyCAM are essential to free, civil, and accessible information and discourse.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

By defining "franchise fee" in an overly broad fashion to include "in-kind" support, the FCC's proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

A handwritten signature in blue ink, appearing to read "Thaddeus Squire".

Thaddeus Squire
Chief Commons Officer



December 13, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Hon. Chairman Pai:

Resolve Philadelphia is writing to support the Initial Comments of the City of Philadelphia et al. and oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311."

Resolve Philadelphia's mission is to develop and advance journalism built on collaboration, equity, and the elevation of community voices and solutions. PhillyCAM has been a dedicated contributor and leader among our 22 newsroom partners as part of our 2017 collaborative journalism project, The Reentry Project, and our current collaboration, Broke in Philly.

As Resolve's public television broadcast partner, PhillyCAM has been an integral part of amplifying solutions-focused reporting and engagement activities that the collaboration partners have produced, in addition to creating community-centered, original content. PhillyCAM is a trusted institution, with roots that run deep in our community. Its programming centers the voices of groups and individuals from across the city, celebrating the creativity, culture, innovation, and diversity that make Philadelphia such a abundant community.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

By defining "franchise fee" in an overly broad fashion to include "in-kind" support, the FCC's proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

Cassie Haynes and Jean Friedman-Rudovsky
Co-Executive Directors,
Resolve Philadelphia



December 11, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Chairman Pai,

The Free Library of Philadelphia supports the Initial Comments of the City of Philadelphia et al. and opposes the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

The Free Library of Philadelphia serves over 5 million in person visits and another 6 million on line visits each year providing the county of Philadelphia with books, databases, internet access, programming, computer training, job search classes and much more.

As the largest big city with the highest poverty rate, we pride ourselves in offering equal and free access to all. We have partnered numerous times with PhillyCam and value the partnership and opportunity to share community news and information with our customer base. We were especially pleased to partner with PhillyCAM on a training partnership in several of our libraries, giving community members the opportunity to learn the basics of film creation and then to share their community stories.

To have a Public Access Channel in our community is critical in sharing with our residents uniquely local programming about their community. This coverage of local events and issues enhances the knowledge base for citizens and builds their community engagement.

To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy. By defining "franchise fee" in an overly broad fashion to include "in-kind" support, the FCC's proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra Horrocks". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sandra A. Horrocks
Vice President, External Affairs



People's Emergency Center

Nurturing Families, Strengthening Neighborhoods, Driving Change.

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

People's Emergency Center (PEC) is located in West Philadelphia. PEC's mission is to nurture families, strengthen neighborhoods and drive change. For families, children, and youth experiencing homelessness, PEC offers more than 235 affordable housing units, job training, parenting and early childhood education, financial education and planning, life skills and technology classes. PEC seeks to change the life trajectory for the families who seek its services and inspire them to achieve housing security and financial stability.

Over the years we have sent dozens of young learners from our technology classes through PhillyCAM programs, during which they have learned computer skills, media literacy, and how to engage with their community through media and storytelling.

At a time when only a few powerful voices control the majority of the media landscape and a billion tiny voices drown each other out across most of what's left, the relevance of reputable, independent, and transparent media sources like PhillyCAM cannot be overstated.

Their local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

By defining "franchise fee" in an overly broad fashion to include "in-kind" support, the FCC's proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.


Sincerely,

Nathan Kuruna
Dept Manager, Digital Inclusion

Administration
Rowan House
325 North 39th Street
Philadelphia, PA 19104
P: 267-777-5800

**Community Development, Digital
Inclusion, & Policy**
Families First
3939 Warren Street
Philadelphia, PA 19104
P: 267-777-5865

Housing & Services
Gloria's Place
3902 Spring Garden Street
Philadelphia, PA 19104
P: 267-777-5868

Email: pec@pec-cares.org
Website: pec-cares.org
 facebook.com/PeoplesEmergencyCenter
facebook.com/LancasterAvePhilly



December 10, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

Philadelphia FIGHT Community Health Centers provide culturally competent comprehensive primary care, and state of the art HIV primary care to low income members of the community, along with research, consumer education, advocacy, social services and outreach to people living with HIV and those who are at high risk, including family members, communities with high rates of HIV, formerly incarcerated persons, and young people at risk; and access to the most advanced clinical research in HIV treatment and prevention. Our consumers have taken production classes at PhillyCAM, attend their events, and rely on PhillyCAM's public access television content for local news. PhillyCAM has also been a great partner to Philadelphia FIGHT in livestreaming events related to health education, mass incarceration, and ending the AIDS epidemic.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.


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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jane Shull'.

Jane Shull
Chief Executive Officer



Date: Dec. 10, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai:

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018, Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

Founded in 1974, Taller Puertorriqueño, Inc. (Taller) is a community based cultural organization whose primary purpose is to preserve, develop and promote Puerto Rican arts and culture, grounded in the conviction that embracing one's cultural heritage is central to community empowerment. Taller's programs and activities are focused on the goal of empowerment through the arts. Our outreach art education programs reach over 5,000 students through in-school artist residencies, after school and summer programs and workshops at Taller. Thanks to its multi-disciplinary arts programming, Taller is a hub for our community and a destination for Latino arts and culture for people across the region. As many as 100,000 people each year celebrate the rich heritage of Philadelphia's Puerto Rican and Latino communities by connecting with Taller's collaborative efforts and programs for children, youth, and adults, and about 20,000 by direct participation. The latest Census figures report that there were approximately 200,000 Latinos in the city of Philadelphia (approximately 12% of the total population) and more than 500,000 in the state. Although still over 60% of Puerto Rican heritage, our communities have seen dramatic increases in their Mexican, Dominicans and other Latino population of up to 200% and 40% respectively. Notably, the community of Northwest Kensington where Taller is located is the largest Latino community in the City. Median household income in 2018 was just over \$15,000 a year with incomes varying from over \$20,000 a year to under \$10,000 a year.

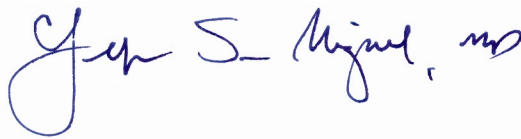
Our ability to expand the reach of our programs through affordable access in Philly Cam and others cannot be underestimated. The relationship with Philly Cam specifically has not only amplified our visibility efforts but has allowed to make our programs reach households beyond the confines of our immediate community throughout the state and the tri-state region.

Furthermore, access to the type of programs we produce, in the language and culture we impact is unique to PEG networks and stations like Philly Cam. This artistic and cultural presence enables the residents of Philadelphia, Pennsylvania, and surrounding areas to make and share uniquely local programming about their community and cover events and issues of interest to them, but also as important to educate others in the community at large. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

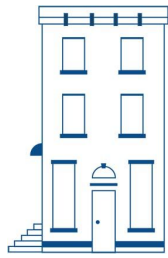
By defining “franchise fee” in an overly broad fashion to include “in-kind” support, the FCC’s proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

A handwritten signature in blue ink that reads "Carmen Febo San Miguel, MD". The signature is written in a cursive, flowing style.

Carmen Febo San Miguel, MD
Executive Director



PACDC

PHILADELPHIA ASSOCIATION
OF COMMUNITY DEVELOPMENT CORPORATIONS

*Implementation of Section 621(a)(1) of the Cable
Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection
and Competition Act of 1992 oc et 2*



December 10, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

BlackStar is an annual film festival focused on work by independent filmmakers of color serving a local, regional, national and international audience of independent filmmakers and film patrons. We sell over 6,000 tickets each year at our festival and engage with over 35,000 people online via social media and electronic news.

PhillyCAM has been a crucial partner to us in the seven years of our festival by providing a channel for our educational programs on PEG channels, which enable us to extend the impact of the festival and share critical dialogue year-round. Additionally, PhillyCAM's reach has been beneficial to us as a partner allowing us to engage with new audiences outside of our immediate scope of influence.

For underrepresented media makers, PEG channels have historically been crucial platforms for presenting work, archiving work, and engaging with communities in a wide manner, which is important for equitable distribution of ideas and stories.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

Maori Karmael Holmes
Director & Founder

BlackStar Film Festival
1229 Chestnut Street
PMB 183
Philadelphia, PA 19107

EM star@blackstarfest.org
PH 267.603.2755
SM @blackstarfest

blackstarfest.org



December 10, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

Fab Youth Philly is a values-driven company that SUPPORTS youth-serving organizations, CONNECTS youth development professionals and INNOVATES original programming for children & teens.

PhillyCAM amplifies the work of hundreds of organizations like FAB YOUTH PHILLY.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

Rebecca Fabiano, President

[Fab Youth Philly](http://FabYouthPhilly.com)

215-703-7125



The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

December 10, 2018

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

Philadelphia Neighborhood Networks is an independent community group that works on social and political issues in the greater Philadelphia area. We have over 2500 constituents and we work on projects involving public education, environment, democratic representation, and other issues of social and economic justice. PhillyCAM has been helpful in educating the public and our constituents on these issues. We participated as a speaker on committee persons in Philadelphia as a way to strengthen our local democracy. Our constituents are also able to get valuable information in programs on education, health, environment, and community engagement. PhillyCAM also was able to broadcast a large community forum we held so as to reach many people who were not able to attend the forum in person.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

Margaret Lenzi, Steering Com
o/b/o Philadelphia Neighborhood Networks

Stan Shapiro, Steering Com
o/b/o Philadelphia Neighborhood Networks

SPIRAL Q

ART & ACTION, JOY & JUSTICE, LIBERATION BEYOND LIMITATION

December 11, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

Spiral Q is an interdisciplinary ensemble of artists, activists, and cultural organizers who work to build strong and equitable communities characterized by creativity, joy, can-do attitudes and the courage to act on their convictions.

Spiral Q began in 1996 amplifying the message of HIV/AIDS activists through puppets and large works of art. Spiral Q now works with communities of all kinds in the city of Philadelphia and beyond: artists, activists, educators, schools, youth service providers, community-based organizations, cultural centers, civic association, HIV/AIDS service and advocacy groups, LGBTQ groups, advocates for the homeless, addiction centers, and mental health providers. We work creatively with nearly 5,000 individuals each year, and bring our public work to estimated audiences of 30,000. Nearly 50% of programs directly engage children and youth in Philadelphia's public schools. A small but significant group of partners include Spiral Q in their work supporting adults living with addiction, or who are homelessness, or have mental health issues. Historically, the vast majority (80%) of participants in Spiral Q's programs and services came from communities with limited financial resources and a lack of access to the abundance of our city.

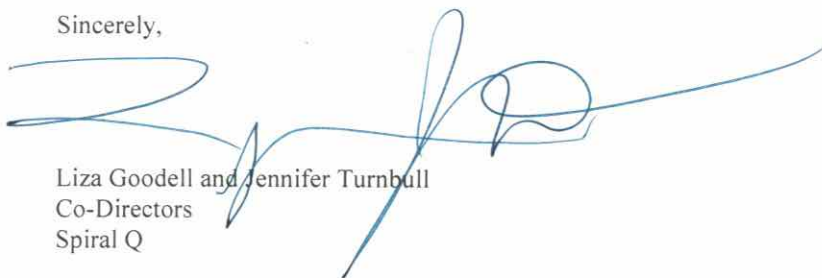
This form of media is ingrained in the culture of our youth and are a really important venue for them. Spiral Q uses this format of visual media to communicate with our kids, and having public assets for this media is very important, not just for us, but for organizations around the city which work with disenfranchised communities.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,



Liza Goodell and Jennifer Turnbull
Co-Directors
Spiral Q



**PHILADELPHIA
YOUNG PLAYWRIGHTS**
Student Voices Center Stage

December 11, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

As Executive Director of Philadelphia Young Playwrights, I, along with my staff, work tirelessly to introduce the 2200 students we work with annually to the resources they have access to in the amplification of their voice and ideas. PhillyCam is a premier resource in our community. PhillyCam provides both the platform to distribute their work, but also provides the technical training to use digital resources they often do not have access to in their daily academic settings.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,



South Philadelphia Prevention Coalition:

Our mission is to work strategically with existing organizations and service providers to strengthen the ability of our youth to resist using illegal substances and to prevent underage drinking.

South Philadelphia
Prevention Coalition
2029 South 8th Street
Philadelphia, PA 19148
(267) 235-4480

December 11, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

The South Philadelphia Prevention Coalition (SPPC) was founded in January 2011, and received Drug Free Communities funding in October 2014. SPPC has 40 participating coalition members, with a high level of involvement in planning prevention activities with youth and families throughout the Philadelphia. SPPC has a strong history of implementing successful partnerships and initiatives within the South Philadelphia community. The goals of the SPPC is to increase community collaboration among organizations and community members; and to decrease alcohol and marijuana use among youth in target areas. While marijuana and alcohol are the target substances for SPPC currently, we are also gathering data on tobacco use, prescription drugs, and heroin in our surveys. SPPC has successfully accomplished several of its goals including becoming a member of the Philadelphia Coalition Networking Collaborative; which connects SPPC to seven other coalitions in Philadelphia— reaching over 700 individuals, who represent over 20 organizations in the targeted community. SPPC helps to improve the quality of life for every generation and member of the multicultural community we serve by providing education, advocacy and social programs in partnership with local government, law enforcement, community civil service organizations and local public and charter schools.

With our weekly show on PhillyCAM Radio called Community Voice Radio Talk Show we are consistently getting the message out to our listeners about amazing people who are truly working to make a difference in the Tri-State area. This free platform allows for us to be unhindered in the way that we can openly educate the mass public on a variety of great things happening in the Tri-State area ranging from health and wellness, to education, to entrepreneurs, to politics and to civic and social engagement and much, much more. This is vital because without this information many of the youth and families in those communities will not have the information that they need to thrive, grow and be productive.

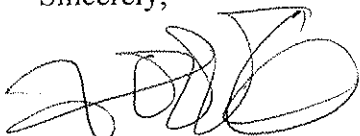
PhillyCAM has played an intricate role for SPPC as a media outlet in getting the information out to our communities about all the resources, programs and services and all the amazing individuals and organizations that can help to make our City a safe and prosperous place to live. We also use PhillyCAM as a platform in the fight against substance abuse and misuse. This is vital in light of the current opioid epidemic in our Nation.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffrey C. Jones', with a stylized, looping flourish at the end.

Jeffrey C. Jones
Director
South Philadelphia
Prevention Coalition
2029 South 8th Street
Philadelphia, PA 19148
JeffreyJones@UCSEP.org
(267) 235-4480







Passage to Work

December 11th, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

I am one of the facilitators of a program at JEVS Human Services called Passage to Work. Our goal is to connect young people, aged 17-21, who have been/are currently in the foster system with educational and employment opportunities. We set up each of our 25 participants with a paid summer internship this summer which allowed them to earn money while exploring different careers. Five of our participants were placed at Philly Cam for their internships. Their experience there was invaluable. Through different workshops and hands-on activities, participants were exposed to and experimented with different media outlets.

They were also given the autonomy to create their own talk shows which they presented to their peers and other site supervisors at the end of the summer. These experiences not only gave these young people access to creative outlets that most of them had not previously have access to, it also allowed them to work through and practice valuable skills such as communication, teamwork, planning, and problem solving. They still talk about this experience months later and several have gone back to visit and to look into future opportunities there.

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

Jennifer Whistler

Education Coordinator

JEVS Human Services

112 N Broad St. 11th Floor

Philadelphia, PA 19102

Phone: 215-854-1872

Email: Jennifer.Whistler@jevs.org

December 12, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

Juvenile Law Center advocates for rights, dignity, equity and opportunity for youth in the child welfare and justice system – youth whose concerns are often not given center-stage. We've had a great partnership with PhillyCAM, a PEG channel, here in Philadelphia. Their programming has helped us share vital information with the community of rights for youth in the system – what their rights are in court, for example, and how they can be involved in the process of decisions being made about their own lives. PhillyCam is a vital resource for this community.

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,



Katy Otto
Director of Communications



December 12, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

I am writing to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

Rooted in Arab arts and language, Al-Bustan Seeds of Culture offers artistic and educational programming that enriches cross-cultural understanding and celebrates diversity. We seek to expose and educate youth and adults of Arab heritage as well as non-Arabs interested in cross-cultural exchange and learning about Arab and other cultures.

Having public access stations like PhillyCAM is a vital resources to us and the city at large, enabling organizations like Al-Bustan to reach a wider audience and for us to learn about the important work that is happening in neighborhoods across the city.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

A handwritten signature in blue ink, appearing to read "Hazami Sayed".

Hazami Sayed
Executive Director



Implementation of Section 621(a)(1) of the Cable

Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992 *oc et* *11*

lil' filmmakers is a media arts or animation that provides educational resources and creative support for young artists who are seeking careers in the media and arts industry. We provide youth with access to video equipment and technology through our editing, performance and production training programs and workshops. Students are able to conceive, create and produce media content. Our animation have served over 200 young people throughout Philadelphia producing dozens of short films, documentaries and feature length movies.

PhillyCA has been essential to how we amplify the voice of our youth and their community. PhillyCA's public access platform gives our youth the ability to broadcast their media content and reach a larger audience. The content our youth create directly reflects how they see the world around them and serves as an educational resource about social issues that will inform their viewing audience. Philly is the heart of how we use media to inform, build and inspire communities.

A handwritten signature in black ink, appearing to read 'JS11' or similar, with a stylized, cursive-like font.

Janine Spruill
Founder/Executive Director

4310 Lancaster Ave. First Floor
Philadelphia, PA 19104
info@lilfilmmakersinc.com
www.lilfilmmakersinc.com
215-222-4510



December 12, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai:

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket 05- 311.

The Leeway Foundation supports women, trans, and gender nonconforming artists and cultural producers working at the intersection of art and social change in Greater Philadelphia. Since 1993, Leeway has made grants to almost 1,000 artists in the region totaling over five million dollars in funding.

PhillyCAM has been a viable community partner and supporter of Leeway's work and the work of its grantees. The independent media artist community is one of the most vibrant communities in the city, and that is due largely in part to the education, networking, and resources that PhillyCAM provides. A significant number of Leeway's grantees use PhillyCAM's channels to broadcast and share their work, and through PhillyCAM's programming, artists are able to connect with our resources and to each other. In November of this year, PhillyCAM showed 28 works of media made by Leeway's grantees as part of Leeway's 25th anniversary celebration. All month long, viewers were able to tune in and see the kind of work Leeway exists to support, but most importantly, see themselves and their communities represented, an occasion all too rare at this moment in time. This is the work that PhillyCAM does all year round, and the impact it has is immeasurable.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

Denise Brown
Executive Director



P.O. Box 8232
Philadelphia, Pa. 19101
PhillyABJ.org

December 12, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

The Philadelphia Association of Black Journalists (PABJ) is a not-for-profit organization founded in 1973 by journalists concerned about the lack of black journalists in the media and the dearth of coverage of the black community. For over 45 years, our organization have trained hundreds of journalists through countless professional development workshops, leadership opportunities, and community service efforts. We have over 125 full-year members in various media-related professions that reach thousands of Philadelphians on a daily basis.

PEG channels have given us the ability to spread our advocacy efforts to communities that our programing cannot be easily accessible to. PhillyCAM has been beneficial by allowing us to use physical space for programming that engages the public through media-based trainings and community forums. These opportunities have allowed us to render services to experienced and evolving journalists that give them opportunities to interact with other diverse communities that have an interest in media advocacy.

PEG channels have been a resource to Philadelphia's black communities because they support higher visibility and diversity through storytelling. As an advocacy organization, PABJ prides itself on advocating for accurate and inclusive coverage of African American and other communities of color while also pressing for fair, accurate and balanced depictions of African Americans in media. PhillyCAM continues to excel at providing such opportunities to diverse media storytellers through programming, professional, and networking opportunities. Now more than ever such channels are necessary to help people with the kind of media literacy that helps people discern reliable news sources and pathways from others.

PABJ is a 501(c)(3) organization
www.phillyABJ.org



P.O. Box 8232
Philadelphia, Pa. 19101
PhillyABJ.org

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We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,
The Philadelphia Association of Black Journalists
Board of Directors
On Behalf of the Membership

PAAFF

PHILADELPHIA ASIAN AMERICAN
FILM FESTIVAL

December 12, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

PAAFF is the first event of its kind in the Greater Philadelphia region celebrating and elevating the Asian American experience through cinema and in its 11-year history has presented hundreds of culturally relevant films, concerts, theater performances, art exhibits, chef demonstrations, and other exciting programming to broad and diverse audiences. In the past decade, PAAFF has grown to become the largest Asian American & Pacific Islander Film Festival on the East Coast of the United States. Our programs serve over 10,000 people annually in the Greater Philadelphia region.

Since I began working for PAAFF in 2013, PhillyCAM has been an important partner in many of the events and public programs we have conducted. Ranging from their pro-bono video coverage and live-streaming of our special events to press coverage on their talk radio and television programming, PhillyCAM has provided crucial support to our organization and countless others in Philadelphia's non-profit space. Perhaps the most rewarding project within our multi-year partnership was the Asian Youth Voices summer workshop we co-hosted in 2016. This week-long intensive workshop allowed a dozen underprivileged youth from the Asian American community to learn about media literacy and how to tell their own stories using visual media. The resulting projects screened as part of our November 2016 film festival where the students had the opportunity to participate in a post-screening Q&A attended by their families, friends, and other members of the community. Their projects later aired on PhillyCAM and are available to watch online via the enclosed link. The best part about our workshop? It was 100% free to the participants because PhillyCAM was able to underwrite the costs of this program using some of their funds from the cable franchise fee.

PAAFF

PHILADELPHIA ASIAN AMERICAN
FILM FESTIVAL

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

By defining “franchise fee” in an overly broad fashion to include “in-kind” support, the FCC’s proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,



Rob Buscher
Festival Director
Philadelphia Asian American Film Festival
www.phillyasianfilmfest.org

Enclosure: PhillyCAM Asian Youth Voices Video
<https://youtu.be/LsxqA2W5bdU>

December 12, 2018

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544



Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

Play On Philly (POP) provides intensive music education to K-12 students, who would typically lack access, as a vehicle for life skills and academic achievement. POP provides a high level of music education to over 200 students, of which 95% identify as "black," "Asian," or "other," and a majority are from families with a household income of less than \$50,000. POP values equity, inclusion, passion, excellence, commitment, accountability and community in all of our programming.

Over the past three years, our high school students at Play On Philly have partnered with the youth program at PhillyCAM to work creatively and collaboratively on film projects, including such works as "Th[ink]; tales from a writer's pen," "Black Men Don't Cry," and "Jasmine's Journey." These films tell the stories of young people of color in Philadelphia, amplifying the voices of people from underrepresented and underserved communities. Our students worked collaboratively with PhillyCAM students to bring the films to life with original music, which they performed live at the films' premieres, and which they recorded to accompany the films in future film festival appearances and on regular rotation on the PhillyCAM public access channel.

It is through this channel that students in our programs have direct access to reach viewers in their own community. It is the threat of de-funding this channel that concerns me and those in my Play On Philly community as a direct threat to our values of equity, inclusion, passion, excellence, commitment, accountability, and community. If public access television is not equitably funded, then a barrier is created between our youth artists and community members; we need to prevent this barrier.

This PhillyCAM channel enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

By defining "franchise fee" in an overly broad fashion to include "in-kind" support, the FCC's proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

Stanford L. Thompson
Founder and Executive Director

1520 Locust Street, Suite 901 • Philadelphia, PA 19102 • 215.729.1863 • stanford@playonphilly.org • www.playonphilly.org



Termite TV Collective

412 Belgrade St., Philadelphia, PA 19125
(215) 426-5187 info@termite.org

W W W .
TERMITE.
O R G

To:

The Honorable Ajit Pai, Chairman
Federal Communications Commission
455 12th Street, Southwest
Washington, DC, 20544

December 10, 2018

Dear Honorable Chairman Pai,

We write to support the comments of the Cable Act Preservation Alliance and to oppose the proposals and tentative conclusions set forth in the FCC's September 25, 2018 Further Notice of Proposed Rule Making (FNPRM) in *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992*, MB Docket 05- 311.

Termite TV is an award winning Philadelphia-based media artists collective. Our programs help to record, distribute and preserve the rich cultural and social life of the city of Philadelphia and surrounding areas. We serve both media artists and community organizations. We have found that by conducting video and digital media workshops in communities we are able to facilitate the creation of media that is more powerful and impactful for the communities they were created in.

PhillyCAM has been crucial in amplifying our work. By providing us with a regular time slot to cablecast our programs, PhillyCAM enables us to reach a wide and diverse audience. It allows us to bring the inspiring stories of artists and community members into the homes of audiences for whom this work is meaningful; audiences that we otherwise could not reach. We have also been active participants in many of PhillyCAM's live programs like "Live Culture." In addition to being an important distribution outlet, PhillyCAM has served as a thriving media training center and cultural hub for arts organizations like ours. It is a place of learning, inspiration and community building.

This local presence enables the residents of Philadelphia, Pennsylvania to make and share uniquely local programming about their community and cover events and issues of interest to them. To that end, the intent of the PEG provisions of the 1984 Cable Act was to enhance local voices, serve local community needs and interests, and strengthen our local democracy.

By defining "franchise fee" in an overly broad fashion to include "in-kind" support, the FCC's proposals will shift the fair balance between cable franchising authorities and cable operators and will force communities to choose between franchise fees and PEG channels – something that was never the intent of the Cable Act.

We appreciate your consideration and hope you will protect PEG channels in our community and others by choosing not to adopt many of the proposals in the FNPRM.

Sincerely,

Anula Shetty, Board Member



*Implementation of
Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the
Cable Television Consumer Protection and Competition Act of 1992 ocet*



Appendix 2

Comments of Community College of Philadelphia

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 621(a)(1) of the Cable)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended)	
by the Cable Television Consumer Protection and)	
Competition Act of 1992)	

COMMENTS OF COMMUNITY COLLEGE OF PHILADELPHIA

Community College of Philadelphia appreciates the opportunity to file comments on the Second Further Notice of Proposed Rulemaking ("FNPRM") in the above-referenced docket. CCPTV, the Emmy® nominated, multiple award winning educational channel of Community College of Philadelphia, cablecasts 24 hours per day, 7 days a week on Comcast Channel 53 and FIOS Channel 21 in the City of Philadelphia. To the extent the proposed regulations may affect the viability and continuity of PEG channels we have concerns that the hundreds of diverse voices using local media could be diminished. In most cases, Local Franchising Authorities will need to choose between franchise fees and PEG channel capacity. Without additional funding, it will impact our ability to provide the unique programming that serves the Philadelphia community by providing a venue for the diverse stories of our faculty, students and wider community: locally produced programming such as the Spanish language *"Entre Nosotros"*, Emmy nominated student spoken word competition *"Drop the Mic"*, *"Philadelphia Cultural Forum"*, which highlights Philadelphia area performers, and quality educational programs ranging from such original programs as *"The Tapestry of Life"* which features stories of recovery, abuse and discrimination and *"Car Corner"* about car maintenance and repair, as well as many more. The loss of these voices and stories would be a loss to the civic life of Philadelphia. We believe that using fair market value to determine the amount to be considered a franchise fee may lead to arbitrary deductions.

Our programming serves the public. We reject the implication in the FNPRM that PEG programming is for the benefit of the local franchising authority. CCPTV provides valuable local programming that is not otherwise available on the cable system. Yet the Commission tentatively concludes that non-capital PEG requirements should be considered franchise fees because they are, in essence, taxes imposed for the benefit of LFAs or their designated PEG providers. By contrast, the FNPRM tentatively concludes that build-out requirements are not franchise fees because they are not contributions to the franchising authority.

We invite the Commission to view for themselves the important benefits provided by PEG programming. The <https://www.youtube.com/user/CCPTV53/videos> link is to our channel on YouTube which, in addition to the programming mentioned above, includes "**Focal Point**", highlighting important student voices and concerns, "**Bike On**", encouraging alternative transportation options and "**The Market**", about the African diaspora.

The mission of CCPTV is to deliver quality educational programming consistent with the College's academic programs, and to feature the talents, skills and knowledge of the Philadelphia community. The proposed rulemaking has the potential to negatively impact our ability to carry out this mission.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Donald General", with a stylized flourish at the end.

Dr. Donald General
President
Community College of Philadelphia
1700 Spring Garden St
Philadelphia PA 19130

12/12/2018

Appendix 3

Comments of LaSalle Univeristy

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 621(a)(1) of the Cable)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended)	
by the Cable Television Consumer Protection and)	
Competition Act of 1992)	

COMMENTS OF LA SALLE UNIVERSITY

La Salle University appreciates the opportunity to file comments on the Second Further Notice of _____-referenced docket. La Salle University runs an educational access cable TV channel in Philadelphia, PA. La Salle TV (Comcast channel 56/Verizon channel 36) reaches over 300,000 homes in the city, providing them with local programming produced by the University in collaboration with community and city partners. We strongly oppose the tentative conclusion in the FNPRM that the value of cable franchise obligations, such as those that allow our programming to be viewed on the cable system, can be deducted from franchise fees.

La Salle TV works with many non-profit organizations in order to provide citizens with educational programming. We work with the Philadelphia Fire Department to present fire and life safety issues through the show, *Freedom From Fire*. Non-profits who mentor youth are featured on *Future Leader In Philadelphia*. Law enforcement officers present community safety information through *Protecting Our Community*. Local attorneys discuss civil law topics on *People's Law*. _____ nursing and nutrition undergrad and grad students present health information through their own public servi
provide similar local programming that cannot be found on the national channels. We give a voice to the everyday citizens of our city.

We reject the implication in the FNPRM that PEG programming is for the benefit of the local franchising authority (LFA) or the PEG provider, rather than the public. As demonstrated above, La Salle TV provides valuable local programming that is not otherwise available on the cable system. Yet the Commission tentatively concludes that non-capital PEG requirements should be considered franchise fees because they are, in essence, taxes imposed for the benefit of LFAs or their designated PEG providers. By contrast, the FNPRM tentatively concludes that build-out requirements are not franchise fees because they are not contributions to the franchising authority. The FNPRM then other requirements besides build-out obligations that are not specifically for the use or benefit of the LFA or an entity designated [by] the LFA and therefore should not be considered contributions to an LFA¹ PEG programming fits squarely into the category of benefits that do not accrue to the LFA or its designated access provider, yet the Commission concludes without any discussion of the public benefits of local programming that non-capital PEG-related provisions benefit the LFA or its designee rather than the public and cable subscribers.

In conclusion, La Salle University strongly opposes the FNPRM and believes that the services provided by our PEG channels are of value to the public as a whole.

Respectfully submitted,
Tonya Ellis

Tonya Ellis
La Salle TV Station Manager
La Salle University
1900 West Olney Avenue
Philadelphia, PA 19141

12-12-18

¹ FNPRM ¶ 21.

Appendix 4

Statement of Temple University



TEMPLE UNIVERSITY
A Commonwealth University

Philadelphia, Pennsylvania 19122

December 13, 2018

To Whom It May Concern,

Temple University Television, or TUTV, the university's citywide, educational, P.E.G. cable channel, is distributed within the City of Philadelphia on the Comcast and Verizon systems. TUTV opposes the proposed changes in F.C.C rules.

While TUTV does not receive funding from the City of Philadelphia under the current L.F.A. between the City and the above-mentioned cable distributors, we believe that the proposed change may result in an unfair and untenable cost burden being placed on the P.E.G. content providers, including TUTV.

We also believe that the rule change creates risk that available bandwidth for P.E.G. channels will be reduced, limiting the number of voices who can avail themselves of these vital platforms for public education, community engagement and personal expression. This would damage TUTV's ability to provide our students with the relevant and substantial opportunities for experiential learning that come with cultivating the practices and protocols required to create professional-grade programming for distribution to a large and discerning viewing audience. We would be less able to connect our students with our community partners and with the media professionals who help them launch meaningful careers.

One other possible, if unintended, outcome of the proposed change would be to harm fundraising for many P.E.G. channels. TUTV is supported financially by the university and by a private, family foundation. Philanthropic donors, or members of similarly-situated stations that rely on participation in regular campaigns for financial support, will be less likely to underwrite a P.E.G. channel in any measure if they believe that their contributions are being passed through to municipal or corporate entities, rather than directly underwriting the content they intended to support.

Sincerely,

Paul Gluck

General Manager, TUTV

Appendix 5

Letter from Comcast to the North Metro Telecommunications Commission



Comcast Twin Cities
10 River Park Plaza
St. Paul, MN 55107

January 3, 2018

CERTIFIED MAIL

Ms. Heidi Arnson
Cable Administrator
North Metro Telecommunications
12520 Polk St. NE
Blaine, MN 55434

Subject: FRANCHISE RENEWAL

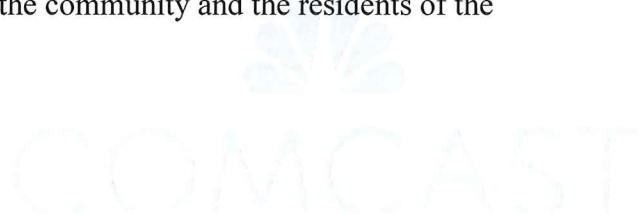
Dear Ms. Arnson:

We at Comcast appreciate the opportunity to serve the citizens of North Metro area. It is our credo that *we will deliver a superior experience to our customers every day. Our products will be the best and we will offer the most customer-friendly and reliable services in the market.* In living our credo, we look forward to providing broadband services to our customers in the North Metro area for many years to come. Therefore, we are taking this step to ensure the renewal of our franchise with you.

The Cable Communications Policy Act of 1984 ("the 1984 Cable Act") encourages franchisors and cable operators **to reach renewal agreements at any time through an informal process of discussion.** However, Section 626 of the 1984 Cable Act also provides for commencement of a formal renewal procedure. To preserve our statutory rights to this formal procedure, this letter is our official notice to you invoking that provision.

This letter is not intended to introduce a new formality into our discussions, nor is that the intention of the 1984 Cable Act. In fact, **we prefer to reach a mutually satisfactory agreement through informal negotiations,** thus making many of the 1984 Cable Act's formal procedures unnecessary.

I will be happy to discuss this matter with you, or provide any additional information that you may require. I look forward to meeting with you in the near future and to continuing a relationship that, we believe, benefits both the community and the residents of the North Metro area.



Sincerely,

A handwritten signature in black ink, appearing to read 'KW', with a long horizontal line extending to the right.

Karly Werner
Director of Government Affairs

cc: Steve White, West Division President
Chris McDonald, West Division Vice President of Government Affairs
Michael Ruger, Senior Director of Government Affairs

